through actual commercial usage and the results of third-party testing that it makes application-to-application functionality available for the pre-ordering functions that it provides to itself.

131. Bell Atlantic offers competing carriers pre-ordering OSS functionality through two electronic interfaces: a proprietary Web-based Graphical User Interface (Web GUI);[375] and an application-to-application interface based on the industry standard EDI Issue 9 protocol.[376] Bell Atlantic implemented EDI-9 in July 1998, along with the associated industry standard transaction formats.[377] Requesting carriers have several options for connecting with the EDI interface, and Bell Atlantic documentation provides the specifications for and benefits of each option.[378] Competing carriers therefore have access to complete, up-to-date business rules for pre-ordering functionality. As of the application filing date, approximately 100 carriers were using the Web GUI for pre-ordering, and three carriers were using the EDI interface.[379] Furthermore, Bell Atlantic recently made available a second application-to-application pre-ordering interface, Common Object Request Broker Architecture (CORBA), which it was testing with one carrier when it filed its application.[380]

132. Bell Atlantic represents that these interfaces allow competing carriers "to obtain the same information from the same underlying OSS as Bell Atlantic's own retail service representatives."[381] Specifically, carriers are able to perform the following pre-ordering

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[375] Bell Atlantic describes the Web GUI as "a graphical interface that a [competing carrier] can access from a personal computer via a dedicated/private line or a secure dial-up line, using either Netscape Communicator 4.0 or higher, or Microsoft IE Version 4.0 or higher." Bell Atlantic Miller/Jordan Decl. at para. 23. Although Z-Tel complains that the Secure ID system for carrier access to the Web GUI is inefficient and costly, Bell Atlantic recently eliminated the need for Secure IDs by enabling carriers to access the Web GUI via the Internet using a URL address and password. *See* Z-Tel Comments at 16-17; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 55. Bell Atlantic states that it provided Z-Tel with passwords on September 20, 1999. Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 55.

[376] Bell Atlantic Miller/Jordan Decl. at para. 21.

[377] Bell Atlantic implemented the transaction formats specified in Local Service Ordering Guidelines (LSOG) version 3 (address validation, appointment scheduling, feature/service availability and telephone number reservation/selection), and worked with MCI WorldCom to develop EDI specifications and business rules for additional functionality (CSR retrieval, loop qualification information, directory listing information, and service order inquiry and installation status). Bell Atlantic Miller/Jordan Decl. at para. 21.

[378] Carriers' options for connecting with Bell Atlantic's EDI interface are: direct connection (dial-up or dedicated); Value Added Networks (VANs); public network (Internet) connectivity; and Interactive Agent connectivity using Secure Socket Layer 3 (SSL3) technology. Bell Atlantic Miller/Jordan Decl. at para. 27.

[379] Bell Atlantic Application at 37.

[380] Bell Atlantic Miller/Jordan Decl. at para. 20 (indicating CORBA testing in progress with AT&T); Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 23 (stating that CORBA is available to any requesting carrier). AT&T claims that CORBA is superior to EDI in that it "provides faster transmission responses to queries, and it is a more flexible standard that permits fine-tuning to improve data transmission." AT&T Crafton/Connolly Aff. at para. 86.

[381] Bell Atlantic Application at 37 n.36. Bell Atlantic's back office pre-ordering systems include: LiveWire (formerly PREMIS) for address validation and telephone number selection and reservation; Work Force Administration (WFA) for service installation status; Customer Record Information System (CRIS) or Carrier

functions: (1) retrieve CSRs;[382] (2) validate addresses; (3) select and reserve telephone numbers;[383] (4) determine services and features available to a customer; (5) obtain due date availability; (6) access loop qualification information; and (7) view a customer's directory listing.[384] Competing carriers also can check the status of pending orders.

133. With respect to actual commercial usage, Bell Atlantic demonstrates that competing carriers successfully have built and are commercially using application-to-application interfaces (EDI-9 and CORBA)[385] to retrieve CSR information and validate addresses, two of the seven pre-ordering functions.[386] MCI WorldCom, for example, implemented EDI access for parsed CSR retrieval on September 3, 1999, followed by address validation for migrating customers on November 1, 1999.[387] Similarly, AT&T acknowledges that it has commercially

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Access Billing System (CABS) for customer service records; Direct Order Entry system (DOE) for service and feature availability; SOP for due date availability and service order inquiry; Automated Telephone Listing and Address System (ATLAS) for directory listing information; and PHOENIX for ISDN and ADSL loop qualification. *See* Bell Atlantic Miller/Jordan Decl. Attach. B. In August 1999, Bell Atlantic began replacing the PREMIS system with LiveWire, which, among other things, enhances Bell Atlantic's address validation capabilities.

[382] CSRs depict the end user's account with Bell Atlantic, including billing name and address, billing and working telephone numbers, a list of services provided to the end user, and the end user's presubscribed interexchange carrier and local presubscribed interexchange carrier. Bell Atlantic Miller/Jordan Decl. at para. 17. Bell Atlantic implemented "parsed" CSR functionality in May 1999. Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 18. With parsed CSRs, pre-order customer information is separated into identifiable fields (*e.g.*, street number, street name) can automatically populate an order form. *See* MCI WorldCom Comments at 27 n.36; MCI WorldCom Reply at 17.

[383] This function allows competing carriers to select a telephone number from up to five available numbers. The selected number is then removed from the pool of available numbers and, if the carrier subsequently submits an order, assigned to the carrier. Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 99-295, at 3-4 (filed Nov. 24, 1999) (Bell Atlantic Nov. 24 *Ex Parte* Letter) (indicating that Bell Atlantic retail representatives obtain a telephone number using the same process and that, with the implementation of LiveWire, residential numbers are removed from the pool for three months and business numbers for twelve months).

[384] Bell Atlantic Application at 37 n.36. We note that the seven pre-ordering functions that Bell Atlantic provides to itself go beyond the five functions previously identified by the Commission. *See supra* n. 371.

[385] We do not consider the Web GUI's functionality in this section because Bell Atlantic does not represent that the Web GUI is an application-to-application interface. We note, however, that the Web GUI provides an economically efficient pre-ordering interface for low-volume carriers and new entrants. *See Ameritech Michigan Order*, 12 FCC Rcd at 20661; *see also* AT&T Crafton/Connolly Aff. at para. 73; Department of Justice Evaluation at 34 n.92; New York Commission Comments at 37; Z-Tel Comments at 16 (noting the Web GUI's suitability for use by small carriers). KPMG conducted a comprehensive functional evaluation and verified that the Web GUI pre-ordering interface enables carriers to perform the seven pre-ordering functions. *See* KPMG Final Report at POP2 IV-20-41.

[386] Bell Atlantic Miller/Jordan Decl. at para. 22. We do not rely on Bell Atlantic's unsubstantiated claims that carriers are also using the EDI pre-ordering interface for telephone number reservation and selection and due date availability. *See* Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 14.

[387] MCI WorldCom Comments at 27, 31; MCI WorldCom Lichtenberg/Sivori Reply Decl. at paras. 10, 13. Although MCI WorldCom recently discovered that its parsed CSR functionality does not cover all order types, it

deployed CORBA for the same two pre-ordering functions.[388] In addition, CTC Communications, a reseller, successfully implemented EDI for parsed CSR retrieval in June 1999.[389]

134. Along with commercial usage, we also base our conclusion on the demonstrated ability of the third-party testers to construct and extensively test the EDI interface for all pre-ordering functions. As part of the third-party testing, Hewlett Packard used documentation provided by Bell Atlantic to build an EDI interface capable of performing each pre-ordering function, including parsed CSR retrieval.[390] KPMG then conducted a functional evaluation and volume and stress tests of the EDI interface, which verified Bell Atlantic's ability to provide the requisite pre-ordering functionality.[391] Although MCI WorldCom alleges that KPMG's testing interface was not as robust as one required in an actual production environment,[392] we find that KPMG's testing interface was able to handle numerous pre-order transactions and extensive scenarios, using common security and transport (*i.e.*, File Transfer Protocol with Public Key Encryption).[393] We therefore accord substantial weight to the demonstrated ability of the third-party testers in this case to build an application-to-application interface for all pre-ordering functions.

135. In this regard, we are not persuaded by commenters' claims that we should discount the ability of third-party testers to construct an EDI interface for all pre-ordering

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does not assert that it is incapable of adding such functionality or that the exclusion of ISDN orders will impede its ability to compete in the local services market.

[388] AT&T Comments at 26; AT&T Crafton/Connolly Aff. at para. 87 (indicating that AT&T deployed CORBA for commercial production for address validation in September 1999, and for parsed CSR retrieval during the first week of October 1999).

[389] *See* Bell Atlantic Miller/Jordan Decl. Attach. A at 2 (Donnellan Affidavit).

[390] *See* KPMG Final Report at Executive Summary II-3; Bell Atlantic Application App. C, Tab 654, Hewlett Packard Consulting, "CTTG Project Final Report," Final Version (Apr. 20, 1999) (HP CTTG Final Report).

[391] *See* KPMG Final Report at POP5 IV-75-137 (EDI Functional Evaluation and Normal Volume Test); POP6 IV138-149 (EDI Stress Test); *see also* New York Commission Comments at 37-38. In particular, KPMG tested the following pre-order functions: address validation; telephone number selection and reservation; directory listing inquiry; service scheduling and due date availability; feature and service availability; customer service record retrieval; carrier access billing retrieval; installation status request; loop qualification and reservation channel facility inquiry; and service order inquiry. KPMG Final Report at POP5 IV-77-78. KPMG also retrieved a limited number of parsed CSRs, and confirmed Bell Atlantic's ability to provide parsed CSR functionality. KPMG Final Report at POP5 IV-135.

[392] MCI WorldCom Comments at 28. For instance, MCI WorldCom claims that KPMG did not attempt to design the transport and security necessary for the interface in actual production. *Id.*

[393] *See* New York Commission Comments at 33-34, 38; KPMG Final Report at POP5 IV-102 (Table IV-5.10) (indicating that KPMG sent 3,400 transactions over the pre-ordering interfaces during its functional evaluation, and more than 23,000 during the volume tests).

functions because the testers received favorable treatment from Bell Atlantic.[394] The testing interface was constructed using publicly available Bell Atlantic documentation.[395] Although KPMG acknowledges that at times it received better treatment from Bell Atlantic than that of an ordinary carrier,[396] there is no evidence to suggest that such treatment skewed the test results.[397] Indeed, the record shows that the New York Commission closely supervised the design and operation of the test.[398] KPMG also specifically reviewed pre-order functionality experienced by actual carriers during its Live CLEC Functional Evaluation "in an effort to assess potential bias in the transaction tests."[399] We find no evidence that the Live CLEC Functional Evaluation revealed that Bell Atlantic provided inferior documentation or technical support to competing carriers.[400]

136. We further find that the fact that no carrier has chosen to access all seven pre-ordering functions using an application-to-application interface does not disprove Bell Atlantic's showing that it makes such functionality available. As we have previously stated, Bell Atlantic is not required to actually furnish a particular item to satisfy its obligations under the checklist; rather, it must show that it has a concrete and specific legal obligation to furnish the item upon request and is "presently ready" to furnish the item.[401] The record in this case shows that factors internal to carriers have affected their decision not to develop and commercially deploy an application-to-application interface for all pre-ordering functions. For instance, carriers acknowledge that they place a higher priority on accessing certain functions (*i.e.*, CSR retrieval

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394 *See* MCI WorldCom Comments at 28 (claiming that, because Bell Atlantic "showed favoritism" to the testers, KPMG's ability to construct an EDI interface for all pre-ordering functions does not demonstrate that Bell Atlantic provides the documentation and support necessary for other carriers to build all functionality for use in a production environment).

395 *See* KPMG Final Report at Executive Summary II-3; HP CTTG Final Report, Overview § 1.4 at 3.

396 *See* KPMG Final Report at Executive Summary II-8 ("For the most part we believe that the quality of service we received during the test was comparable to that generally received by CLECs. However, on several occasions we believe that we received better treatment than a normal CLEC. For example, BA-NY resources assigned to handle many of our problem escalations were very senior BA-NY resources.").

397 Rather, to the extent that Bell Atlantic incorporated the testers' suggestions for enhancing its documentation, we find that competing carriers benefited significantly from the third-party testers' construction and testing of the interface. *See* Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 12 (indicating that Bell Atlantic incorporated Hewlett Packard's suggestions into its EDI documentation).

398 *See* New York Commission Comments at 31-34.

399 KPMG Final Report at POP3 IV-42 (noting that the Live CLEC Functional Evaluation "allowed for an element of blind testing and tracking performance in a 'real world' environment.").

400 *See* KPMG Final Report at POP3 IV-42-64.

401 *See Ameritech Michigan Order*, 12 FCC Rcd at 20601-02, 20614 (explaining that a BOC's duty to "provide" a checklist item where no competitor is actually using the item requires that it demonstrate that it makes the item available as both a legal and practical matter); *id.* at 20618 (recognizing that a BOC need not ensure that competing carriers are currently using every OSS function as long as the BOC can demonstrate that the lack of use is a result of carriers' business decisions).

and address validation) through an application-to-application interface than other functions that are not as critical to the carrier's business plan.[402] Indeed, AT&T acknowledges that, with access to CSR retrieval and address validation, it can "ramp up commercial volumes using CORBA's present capabilities."[403] It would therefore be inappropriate to penalize Bell Atlantic simply because carriers are not actively seeking to implement the remaining application-to-application functions at this time.[404] In any event, we expect that the experience carriers gained in implementing parsed CSR retrieval and address validation will facilitate their efforts to deploy the remaining application-to-application functions.

137. *Integration.* We find that Bell Atlantic demonstrates that its application-to-application interfaces allow competing carriers to integrate pre-ordering information into Bell Atlantic's ordering interface and the carriers' back office systems, a finding that is fundamental to a BOC's showing of nondiscriminatory access to OSS.[405] The Commission has explained previously that a BOC with integrated pre-ordering and ordering functions must provide competing carriers with access to the same capability.[406] In this regard, the BOC must enable competing carriers to transfer pre-ordering information electronically to the BOC's ordering interface or to the carriers' own back office systems, which may require "parsing" pre-ordering information into identifiable fields.[407] Without an integrated system, a competing carrier would be forced to re-enter pre-ordering information manually into an ordering interface, which leads to additional costs and delays, as well as a greater risk of error.[408] This lack of integration would

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[402] MCI WorldCom, for example, claims that retrieving parsed CSRs is the most important pre-ordering function, and that lack of application-to-application access to service and feature information is "not nearly as problematic" and "has not proven to be a commercial necessity." MCI WorldCom Lichtenberg/Sivori Reply Decl. at para. 6. *See also* MCI WorldCom Lichtenberg/Sivori Decl. at para. 69.

[403] AT&T Crafton/Connolly Aff. at para. 88.

[404] MCI WorldCom further notes that its deployment schedule has been affected by a self-imposed "Y2K moratorium" on software changes that began on October 1, 1999, although it was able to secure an exception to implement EDI address validation on November 1, 1999. MCI WorldCom Lichtenberg/Sivori Decl. at para. 96. Nevertheless, MCI WorldCom implies that application-to-application access to telephone number selection, due date availability, and address validation for new customers could be implemented as early as the first quarter of 2000, and the other pre-ordering functions later that year. *Id.*; MCI WorldCom Reply at 20-21. *See also* Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 16 (indicating that MCI WorldCom has completed EDI testing for telephone number reservation and selection, due date availability and directory listing information).

[405] *See* New York Commission Comments at 48.

[406] *See Second BellSouth Louisiana Order*, 13 FCC Rcd at 20661-67; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6275-79; *BellSouth South Carolina Order*, 13 FCC Rcd at 602, 620-29.

[407] *See BellSouth South Carolina Order*, 13 FCC Rcd at 620.

[408] *See Second BellSouth Louisiana Order*, 13 FCC Rcd at 20661, 20666, 20676-77; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6276-77; *BellSouth South Carolina Order*, 13 FCC Rcd at 602, 623-24, 629 (finding that, in addition to increased costs and delays, manual retyping of information can contribute to a high error rate); *see also* AT&T Comments at 26; AT&T Crafton/Connolly Aff. at paras. 70, 73, 81 (noting that, absent integration, a carrier would incur substantial costs, delays, and risks of error by entering data twice – once into Bell Atlantic's OSS and again into the carrier's own systems); MCI WorldCom Comments at 26; MCI WorldCom Lichtenberg/Sivori Decl.

place competitors at a competitive disadvantage and significantly impact a carrier's ability to serve its customers in a timely and efficient manner.[409]

138. Our finding that Bell Atlantic's pre-ordering and ordering interfaces are readily integratable is based on evidence of successful commercial integration and KPMG's findings. In terms of commercial usage, Bell Atlantic demonstrates that CTC Communications was able to develop an integrated EDI pre-ordering and ordering system for parsed CSR information.[410] Similarly, we find that MCI WorldCom and AT&T have integrated parsed CSR retrieval and limited address validation functionality into their back office systems.[411] This successful integration of two pre-ordering functions in a commercial setting is probative evidence that carriers are capable of integrating the remaining pre-ordering functions.[412] This evidence is also consistent with KPMG's finding that Bell Atlantic's pre-ordering and ordering interfaces are integratable.[413] Although KPMG did not build a back office system to automatically populate the pre-ordering data into the ordering interface, it did evaluate the compatibility of the pre-ordering and ordering field names and formats and found that carriers would be able to integrate the information into their back office systems.[414]

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at paras. 9-10, 21 (claiming that manual re-entry of pre-ordering information hinders a carrier's ability to reach commercial volumes of orders).

[409] *BellSouth South Carolina Order*, 13 FCC Rcd at 623.

[410] *See* Bell Atlantic Miller/Jordan Decl. at para. 22. Bell Atlantic submitted the testimony of Michael H. Donnellan, Vice President of Operations for CTC Communications, describing CTC's development of an EDI pre-ordering interface through which "Bell Atlantic data is seamlessly inserted into CTC systems." Bell Atlantic Miller/Jordan Decl. Attach. A at 3. Specifically, Donnellan asserts that "the information requested through a CSR flows in a file from Bell Atlantic's pre-order systems into CTC's information systems," where it is "reviewed on line and then an EDI order is created." *Id.* Donnellan also cites "Bell Atlantic's demonstrated effort" in assisting CTC through the development and testing stages. *Id.* We expect that Bell Atlantic will provide all necessary documentation and technical assistance to other carriers that seek to integrate pre-ordering and ordering functions.

[411] *See, e.g.*, Letter from Lori Wright, Senior Manager, Regulatory Affairs, MCI WorldCom, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 99-295 (filed Nov. 24, 1999) (MCI WorldCom Nov. 24 *Ex Parte* Letter) (indicating that MCI WorldCom has successfully integrated parsed CSR retrieval and address validation using EDI); AT&T Crafton/Connolly Reply Aff. at para. 32 (indicating that AT&T has successfully integrated parsed CSR retrieval and address validation using CORBA).

[412] *See supra* at para. 136 (discussing carriers' internal business decisions to delay deployment of other application-to-application functionality, some of which MCI WorldCom has completed testing).

[413] For example, KPMG stated:

> For [competing carriers] attempting to integrate the EDI pre-order and order processes, efficiencies can be achieved by automating the population of order input fields with information returned in the pre-order response forms. [Bell Atlantic] has published a guide that identifies the transport format of an EDI transaction. [Bell Atlantic] has also published business rules documents that specify how [competing carriers'] pre-orders and orders should be structured.

KPMG Final Report at POP5 IV-76 (footnotes omitted).

[414] As KPMG reported:

139. We are not persuaded by commenters' claims that full integration is not presently possible because Bell Atlantic's pre-ordering and ordering field names and formats are not entirely uniform.[415] Based on the record evidence of successful commercial integration, it does not appear that incompatible fields are significantly increasing carriers' costs or impeding their ability to integrate pre-ordering and ordering functionality. In fact, MCI WorldCom indicates that it resolved problems with field incompatibility for the two functions that it has integrated successfully.[416] Of course, to the extent that Bell Atlantic becomes aware of any inconsistencies in field names or formats that would impede a carrier's ability to integrate pre-ordering and ordering functions, we expect that Bell Atlantic promptly will design and deploy a software correction or provide the necessary technical assistance to competing carriers in the interface integration.[417]

140. *Access to Loop Qualification Information.*[418] We find that Bell Atlantic demonstrates that it offers nondiscriminatory access to OSS pre-ordering functions associated with determining whether a loop is capable of supporting xDSL advanced technologies.[419] As an

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> [A] limited number of integrated pre-order/order transactions were conducted. In these cases, the information returned in the pre-order response was manually copied, without modifications, into the Local Service Request (LSR). This test was conducted to highlight any inconsistencies in field name and format between pre-order and order forms.

KPMG Final Report at POP5 IV-79; *see also id.* at POP5 IV-90 (identifying the integrated pre-order/order scenarios tested). KPMG identified certain field name and format inconsistencies, but found that the problems could be addressed by building a logical interface between pre-order responses and orders. *Id.* at POP5 IV-119-121; POP5 IV-128-130 (Table IV-5.20).

[415] *See* AT&T Comments at 13, 22, 26 (claiming that CORBA cannot be "fully" integrated with the EDI ordering interface); AT&T Crafton/Connolly Aff. at paras. 82-83, 88, 91 n.51 (claiming that inconsistencies in the data elements for pre-ordering and ordering preclude full integration). Without uniformity, the pre-ordering data cannot automatically populate an order form but instead must be translated into the proper field characteristics for ordering. *See* AT&T Crafton/Connolly Aff. at paras. 79-85. AT&T nonetheless admits that it has not yet tested whether it can integrate the remaining pre-ordering functions using CORBA. *See* AT&T Crafton/Connolly Reply Aff. at para. 32.

[416] *See* MCI WorldCom Nov. 24 *Ex Parte* Letter ("MCI WorldCom has resolved the problems with the differences in the pre-order and order field sizes for the two functions (CSR and address validation) that currently are up-and-running.").

[417] We note that Bell Atlantic plans to minimize inconsistencies in fields and formats and simplify the use of pre-ordering and ordering interfaces with the rollout of LiveWire, the implementation of LSOG 4 in February 2000 and in ongoing collaborative discussions with competing carriers "which will result in still further commonality in mid-2000." Bell Atlantic Nov. 24 *Ex Parte* Letter at 5.

[418] Aside from access to loop qualification information and due date information, which is discussed in Section V.B.1.f below, commenters do not dispute that the functionality provided by Bell Atlantic for the other pre-ordering functions is nondiscriminatory.

[419] Because characteristics of a loop, such as its length and the presence of various impediments to digital transmission, can hinder certain advanced services technologies, carriers often seek to "pre-qualify" a loop by accessing basic loop makeup information that will assist carriers in ascertaining whether the loop, either with or without the removal of the impediments, can support a particular advanced service. *See* Covad Conley/Poulicakos Decl. at para. 39; Rhythms Geis/Williams Aff. at paras. 13, 38-39, 49-51; *see also Deployment of Wireline Services*

initial matter, we recognize that the Commission's recently enunciated *UNE Remand* rules, which further defined an incumbent LEC's obligations regarding nondiscriminatory access to loop qualification information, are not in effect. We do not consider, therefore, whether Bell Atlantic complies with the requirements that resulted from that proceeding in the context of this section 271 application. Rather, for purposes of this application, in determining whether Bell Atlantic is providing nondiscriminatory access to its OSS in accordance with section 271(c)(2)(B)(ii) and (xiv), we evaluate only whether Bell Atlantic provides requesting carriers equivalent access to the loop qualification functionality that it provides to itself.[420]

141. As the Department of Justice observes, "[a]ccess to pre-ordering information is particularly important in connection with DSL services because of the special loop requirements for such services."[421] Whether a prospective customer can be provided a particular advanced service often depends upon the carrier having access to detailed information about available loops, including the actual loop length and the presence of bridged taps, load coils, and digital loop carrier equipment. As the Commission previously has explained, a BOC's duty to provide nondiscriminatory access to OSS extends beyond the interface component to encompass all of the processes and databases used by the BOC in providing service to itself and its customers.[422] In the *Advanced Services Order and NPRM*, the Commission explained that "[i]f new entrants are to have a meaningful opportunity to compete, they must be able to determine during the pre-ordering process as quickly and efficiently as can the incumbent, whether or not a loop is capable of supporting xDSL-based services."[423] A BOC therefore must provide requesting carriers nondiscriminatory access to the systems and processes for identifying loop characteristics that it provides to its retail representatives.

142. Bell Atlantic provides three avenues for competing carriers to obtain information regarding its loops. First, for a limited number of central offices, Bell Atlantic provides a mechanized loop qualification process that indicates a theoretical loop length and whether a loop

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Offering Advanced Telecommunications Capability, et al., CC Docket Nos. 98-147 *et al.*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 24012, 24037 (1998) (*Advanced Services Order and NPRM*), *recon. pending*.

[420] We note that, after the effective date of the *UNE Remand* rules, Bell Atlantic and all other incumbent LECs must comply with these rules, and future section 271 applicants must demonstrate compliance with the new requirements.

[421] Department of Justice Evaluation at 25.

[422] *See Ameritech Michigan Order*, 12 FCC Rcd at 20616; *see also id.*, 12 FCC Rcd at 20615 (considering "all of the automated and manual processes that a BOC has undertaken to provide access to OSS functions.").

[423] *Advanced Services Order and NPRM*, 13 FCC Rcd at 24038. The Commission explained that "[a]n incumbent LEC does not meet the nondiscrimination requirement if it has the capability electronically to identify xDSL-capable loops, either on an individual basis or for an entire central office, while competing providers are relegated to a slower and more cumbersome process to obtain that information." *Id.* As these statements demonstrate, there can be no doubt that Bell Atlantic and other BOCs have had sufficient notice that their section 271 obligation to provide nondiscriminatory access to OSS extends to loop qualification information.

is qualified for ADSL service.[424] Bell Atlantic is currently surveying its entire loop inventory to identify loops that are ADSL-capable, and expects to have "93 percent of Bell Atlantic's central offices in New York with completed or pending collocation orders" pre-qualified by the end of 1999.[425] Second, for central offices that are not included within the mechanized loop qualification database, Bell Atlantic will conduct a "Manual Loop Qualification" to provide carriers with the same information that is ordinarily available through the mechanized loop qualification process (*i.e.*, theoretical loop length and ADSL capability).[426] Third, in order to access more detailed information about the makeup of a particular loop, carriers can request a manual "Engineering Query" that can provide the physical loop length, the number and location of load coils, the length and location of bridged taps, the gauge of the wire at specific locations, and the locations of digital loop carrier equipment.[427] Bell Atlantic states that almost all of this information must be obtained and verified using paper loop plant records, or "plats."[428]

143. We find that these mechanized and manual processes enable requesting carriers to access loop qualification information in substantially the same time and manner as Bell Atlantic's retail operations.[429] The record shows that competing carriers have access to the same database that Bell Atlantic makes available to its retail representatives, and therefore the same

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[424] Specifically, the mechanized loop qualification database identifies unloaded copper loops that are 18,000 feet or less in length, all of which were designed with less than 6,000 feet of bridged taps. *See* Bell Atlantic Application at 21; Bell Atlantic – New York's Joint Affidavit in Support of Proposed Rates for ADSL-Qualified, HDSL-Qualified, and Digital-Designed Links, Case 98-C-1357 (Sept. 13, 1999) at para. 24; Letter to Magalie Roman Salas, Secretary, FCC, to Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, CC Docket No. 99-295 (filed Nov. 22, 1999) (Bell Atlantic Nov. 22 *Ex Parte* Letter). In contrast to competing carriers, Bell Atlantic's retail representatives can "prequalify" a loop only through the mechanized loop qualification process. If a customer's line is not shown as qualified for ADSL service through the mechanized database, Bell Atlantic's sales representatives will not sell ADSL services to that customer. Bell Atlantic Miller/Jordan Decl. at para. 17; Bell Atlantic Lacouture/Troy Reply Decl. at para. 99.

[425] Bell Atlantic Application at 21; Bell Atlantic Lacouture/Troy Decl. at para. 84. According to Bell Atlantic, central offices with collocation represent 90 percent of the company's access lines in New York. Bell Atlantic Lacouture/Troy Decl. at para. 84. Bell Atlantic populates the mechanized loop qualification database for a particular central office by conducting a mechanized loop test of a sample of the loops in each terminal served by that office and determining whether the individual loop is served by copper or by fiber technology. *See* Bell Atlantic – New York's Joint Affidavit in Support of Proposed Rates for ADSL-Qualified, HDSL-Qualified, and Digital-Designed Links, Case 98-C-1357 (Sept. 13, 1999) at para. 23.

[426] Specifically, the Manual Loop Qualification process provides the total metallic loop length, the presence of load coils and digital loop carrier equipment and the capability of the loop to support ADSL. *See* Bell Atlantic Application at 21; Bell Atlantic Lacouture/Troy Decl. at para. 85; Bell Atlantic – New York's Joint Affidavit in Support of Proposed Rates for ADSL-Qualified, HDSL-Qualified, and Digital-Designed Links, Case 98-C-1357 (Sept. 13, 1999) at para. 29.

[427] *See* Bell Atlantic Application at 21; Bell Atlantic Lacouture/Troy Reply Decl. at para. 102; Bell Atlantic Nov. 22 *Ex Parte* Letter at 2.

[428] Bell Atlantic Lacouture/Troy Reply Decl. at para. 102.

[429] Given the mechanized and manual processes described above, we differ with the Department of Justice's belief that the record is not sufficiently developed to conclude that Bell Atlantic is providing nondiscriminatory access to loop qualification information. *See* Department of Justice Evaluation at 26.

information for the same central offices.[430] We disagree with commenters' claims that the mechanized process is discriminatory because, in populating the database, Bell Atlantic filtered its back office information in such a manner that it is useful only for Bell Atlantic's particular advanced services offering.[431] Indeed, we find that competing carriers have access to the same underlying information that Bell Atlantic used to populate the mechanized loop qualification database.[432] Although carriers seek real-time electronic access to other back office databases,[433] we do not find convincing evidence on this record that the information that carriers seek in electronic form is currently contained in any existing Bell Atlantic database that carriers cannot already access.[434]

144. *Response Times.* We find that Bell Atlantic demonstrates that it provides requesting carriers access to pre-ordering functionality in substantially the same time that it provides access to its retail operations. With respect to parsed CSR retrieval, which has no retail

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[430] Bell Atlantic Lacouture/Troy Decl. at para. 85. Although Bell Atlantic is still in the process of surveying loops, the company claims that, as the loop information is gathered, it is made available simultaneously to competitors and its retail operations. We therefore disagree with carriers that argue that the mere fact that the mechanized loop qualification tool is not yet available in every central office renders it discriminatory. *See* CompTel Comments at 26; CoreComm Comments at 7; Covad Comments at 28; Northpoint Comments at 6, 8-9; Rhythms Comments at 14-20.

[431] *See* Covad Comments at 28-29; MCI WorldCom Comments at 34-35; MCI WorldCom Kinard Decl. at paras. 7-11; Network Access Comments at 9-10; New York State Attorney General's Comments at 16; Northpoint Comments at 7, 11-12; Rhythms Comments at 15-17; Sprint Comments at 11-14. MCI WorldCom, for example, claims that the mechanized loop qualification tool fails to provide carriers with loop length for loops over 18,000 feet, the length of the loop without bridged taps, the location and number of bridged taps, the loop wire gauge, spectrum management information, and the presence of load coils, digital loop carriers, repeaters, Digital Added Main Lines and pair gain devices, which could be used to assess the loop's compatibility with xDSL services other than ADSL. MCI WorldCom Comments at 35.

[432] Although commenters note that manual loop qualification processes (the Manual Loop Qualification and the Engineering Query) are time consuming and costly, they do not dispute that the manual processes provide access to all the loop makeup information that they need to make an independent assessment about a loop's suitability for a particular advanced service. *See* CompTel Comments at 27; Covad Comments at 29; Covad Conley/Poulicakos Aff. at para. 48; MCI WorldCom Comments at 32-36; Network Access Comments at 9-10; NorthPoint Comments at 7; Prism Comments at 21; Rhythms Comments at 15. We recognize that, pursuant to its tariff investigation, the New York Commission is in the process of reviewing the costs, as well as terms and conditions, of the access to loop makeup information that Bell Atlantic provides to competing carriers. *See infra* Section V.B.3.

[433] *See* CompTel Comments at 26-27; Covad Reply at 14-15; MCI WorldCom Comments at 35 n.48; MCI WorldCom Kinard Decl. at para. 15 n.18; Northpoint at 5, 11-12; Rhythms at 17-20; Rhythms Geis/Williams Aff. at paras. 36-37, 43. Specifically, commenters seek access to the Loop Facility Assignment and Control System (LFACS), which inventories, maintains and assigns outside plant local loop facilities, and the Trunk Inventory Record Keeping System (TIRKS), which inventories, maintains and assigns facilities for interoffice transmission, trunking and other special services. Bell Atlantic Miller/Jordan Decl. at para. 64.

[434] In response to commenters' assertions, Bell Atlantic claims that it "does not itself use or maintain" loop makeup information in a mechanized database, and that competing carriers seek "information that is not mechanized in [Bell Atlantic's] systems." Bell Atlantic Reply at 15; Bell Atlantic Lacouture/Troy Reply Decl. at para. 102. *See also* Bell Atlantic Nov. 22 *Ex Parte* Letter at 3 (representing that LFACs does not contain loop makeup information "[i]n well over 90 percent of the cases."). We find no conflicting evidence on the present record.

analogue, we conclude that Bell Atlantic provides access sufficient to allow an efficient competitor a meaningful opportunity to compete.

145. To compete effectively in the local exchange market, competing carriers must be able to perform pre-ordering functions and interact with their customers as quickly and efficiently as the incumbent.[435] The Commission previously has determined that a slower, less efficient process would have a significant impact on a competing carrier's ability to compete.[436] For example, competing carriers must be able to retrieve a prospective customer's service record and other pre-order information in substantially the same time that it takes a BOC's retail representative to access the same information. A slower process can lead to delay while a prospective customer is on the line, causing the customer to view the competing carrier as a less efficient competitor than the BOC.[437] Such a delay would also increase a carrier's operating costs and impede its ability to engage in aggressive marketing campaigns.[438]

146. Our finding that Bell Atlantic processes pre-order inquiries from competing carriers in substantially the same time that it takes to process analogous retail transactions is based on Bell Atlantic's performance data.[439] Bell Atlantic reports pre-order response times[440] according to a performance standard of "parity plus four seconds" established by the New York Commission based on a consensus reached in the Carrier-to-Carrier collaborative proceeding.[441] Given the additional security measures and computer translations needed to process pre-order transactions from competing carriers,[442] we find that the "parity plus four seconds" standard is a

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435 *See BellSouth South Carolina Order*, 13 FCC Rcd at 625, 634-36 (expressing concern that significantly greater time is required for competitors to access and review pre-ordering information); *Ameritech Michigan Order*, 12 FCC Rcd at 20616 (finding that limits on the processing of information between an interface and legacy systems that prevent a competitor from performing a transaction in substantially the same time and manner as the BOC would be discriminatory).

436 *BellSouth South Carolina Order*, 13 FCC Rcd at 636.

437 *See BellSouth South Carolina Order*, 13 FCC Rcd at 588; *see also* AT&T Crafton/Connolly Aff. at para. 85 n.47 ("AT&T representatives perform the CSR retrieval while the customer is on the line.").

438 *See BellSouth South Carolina Order*, 13 FCC Rcd at 636.

439 We also note that KPMG reported response times for pre-order transactions, but given the significant improvement in the recent commercial usage data, we place less weight on KPMG's response times. *See* KPMG Final Report at POP5 IV-131, 136.

440 Response time is the time that elapses between the submission of a query and the receipt of a response by the requesting carrier. *See* KPMG Final Report at POP8 IV-166; *see also Performance Measurements NPRM*, 13 FCC Rcd at 12837 (discussing the average interval for providing access to pre-ordering information).

441 *See* Bell Atlantic Dowell/Canny Decl. Attach. B at 5-7; New York Commission Comments at 38-39. Most pre-order transactions, except for retrieval of parsed CSRs, have a retail analogue and are subject to a performance standard of "parity plus four seconds." We discuss the response times for parsed CSRs below. *See infra* paras. 151-53.

442 The four-second differential accounts for additional security requirements and computer translations that Bell Atlantic systems undertake to provide access to competing carriers. *See* Bell Atlantic Dowell/Canny Decl. at para. 23, Attach. B at 6; New York Commission Comments at 38-39.

reasonable and appropriate measure of whether Bell Atlantic processes pre-order transactions for competing carriers in substantially the same time that it processes its own pre-order transactions.

147. Performance data from August through September 1999 show that Bell Atlantic responds to pre-order inquiries from competing carriers in substantially the same time that it responds to analogous pre-order inquiries from retail representatives.[443] Where Bell Atlantic deviated from the parity standard, it did so by only a fraction of a second for some pre-order functions, and less than two seconds for all others.[444] Although a few commenters claim that these disparities are significant,[445] we disagree and find that the slight variations in response times are not likely to impair the ability of a competing carrier to negotiate a service order while a customer is on the line. We also find no evidence in the record that these slight deviations have impacted a competing carrier's ability to conduct an aggressive marketing campaign or to compete effectively in the local exchange market. We therefore do not find that the slight deviations warrant a finding that Bell Atlantic does not return pre-order transactions for competing carriers in substantially the same time that it does for itself. We are nonetheless prepared to take appropriate enforcement action should the deviations in response times become more commercially significant or widespread.

148. We reject commenters' assertions that Bell Atlantic's performance measurements do not accurately reflect pre-order response times experienced by carriers,[446] given the measures that Bell Atlantic implemented prior to filing its application that capture pre-order response time more accurately.[447] Specifically, as agreed to in the New York Commission's Carrier-to-Carrier collaborative proceeding, Bell Atlantic generates pre-order response time measurements using the EnView system (formerly called Sentinel).[448] Instead of timing actual pre-order transactions,

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[443] Although Bell Atlantic reported pre-order response times in June and July that met the "parity plus four seconds" standard for all pre-order functions reported, we rely on data starting in August because, as discussed below, Bell Atlantic made changes in the way that it calculates response times in August that more accurately capture response times experienced by competing carriers.

[444] For EDI unparsed CSR retrieval, Bell Atlantic failed to meet the standard by .95 of a second in August and 1.52 seconds in September. For EDI due date availability, Bell Atlantic met the standard each month. For EDI address validation, Bell Atlantic met the standard in August and deviated by 1.87 seconds in September. For EDI product and service availability, Bell Atlantic met the standard in August and deviated by .16 of a second in September. *See* Bell Atlantic Dowell/Canny Decl. Attach. D at 96 (metrics PO-1-01; PO-1-02; PO-1-03; PO-1-04 for August 1999); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 1 (metrics PO-1-01; PO-1-02; PO-1-03; PO-1-04 for September 1999).

[445] *See* AT&T Crafton/Connolly Aff. at para. 85 n.47; AT&T Crafton/Connolly Reply Aff. at paras. 37-40.

[446] *See* AT&T Comments at 48; AT&T Crafton/Connolly Aff. at para. 78 n.44, 85 n.47; AT&T Crafton/Connolly Reply Aff. at para. 36; MCI WorldCom Kinard Decl. at paras. 7-8.

[447] *See Ameritech Michigan Order*, 12 FCC Rcd at 20656 (requiring Commission satisfaction that performance measures submitted by the BOC actually measure performance in a manner that shows whether the BOC provides nondiscriminatory access to OSS functions).

[448] EnView was initially developed to monitor the internal TISOC systems response and availability times. *See* KPMG Final Report at POP8 IV-164. Bell Atlantic describes EnView as a "performance evaluation software tool that measures and records the actual response time of transactions through emulation by logging into applications and executing individual transactions." Bell Atlantic Dowell/Canny Decl. Attach. B at 6. In response to AT&T's

EnView simulates pre-ordering transactions for both competing carriers and Bell Atlantic's retail operations using "robots."[449] These robots send periodic pre-order inquiries, at least ten transactions per hour for each transaction type, into Bell Atlantic's back office pre-ordering systems 24 hours a day, seven days a week. The response times reported in the metrics are monthly averages of the average daily transactions captured from 8:00 a.m. to 6:00 p.m., Monday through Friday.[450] Prior to August, the EnView system reported response times only for Bell Atlantic's older Electronic Interface Format (EIF) interface. In August, at the request of the New York Commission staff, Bell Atlantic began separately measuring and reporting response times for the EDI interface and, for both interfaces, began measuring transaction time from receipt of the request at the Bell Atlantic firewall to return of the response through the Bell Atlantic firewall.[451]

149. We find that the changes implemented in August significantly improved the accuracy of the EnView system as a measure of pre-order response time.[452] Specifically, we find that the EnView system simulates pre-order transactions for all active pre-ordering interfaces;[453] mirrors the type of transactions performed by Bell Atlantic retail representatives during retail service hours; and captures the entire time that the transaction passes through Bell Atlantic systems, including the firewall. Even though evidence of actual pre-order response time would also be useful for our analysis, we conclude that the EnView system is a suitable measure of the time that a carrier or retail representative's pre-order request traverses Bell Atlantic's systems. As more carriers access Bell Atlantic's pre-ordering systems through EDI and CORBA, however, we encourage the New York Commission to continue to work with Bell Atlantic and competing carriers to ensure that the EnView simulation system continues to accurately reflect Bell Atlantic's retail operations (in terms of variability of transactions and service hours) and

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criticism of the EnView system, Bell Atlantic notes that AT&T agreed in its interconnection agreement with Bell Atlantic to use the EnView system to measure pre-ordering response times. Bell Atlantic Dowell/Canny Reply Decl. at para. 12.

[449] The EnView system consists of two emulation programs, or "robots," one operating out of Manchester, New Hampshire and the other out of Andover, Massachusetts. The robots run pre-defined scripts requesting information as if the information were being requested from a competing carrier (which would be processed through the DCAS system) or from a Bell Atlantic retail representative (which would flow directly to back office systems). *See* KPMG Final Report at POP8 IV-164-165 (describing EnView system).

[450] Bell Atlantic Dowell/Canny Decl. Attach. B at 5.

[451] *See* Bell Atlantic Dowell/Canny Decl. at para. 24; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 21; New York Commission Comments at 39; *see also NYPSC Permanent Rule Order*, App. at 3-4 (ordering Bell Atlantic to measure separately response times for each type of interface, and to begin reporting EDI interface response times immediately).

[452] The New York Commission agrees that Bell Atlantic's August data more accurately capture pre-order response time because Bell Atlantic started measuring the EDI interface and implemented other changes. The New York Commission also notes that additional refinements to the EnView pre-order measurement system are currently being considered in the Carrier-to-Carrier proceeding. New York Commission Comments at 39.

[453] Although Bell Atlantic does not yet report CORBA pre-order response times, in light of the nascency of that interface and Bell Atlantic's reporting of the alternative EDI-9 interface, failure to report CORBA performance data does not preclude a finding that Bell Atlantic is meeting its pre-order OSS checklist requirements.

capture response times properly.

150. We further find that, in addition to accommodating current demand, Bell Atlantic demonstrates that its pre-ordering systems and interfaces are scalable to handle reasonably foreseeable demand volumes.[454] We base our conclusion on Bell Atlantic's current performance and KPMG's findings. We find that Bell Atlantic processed more than 1.3 million pre-ordering transactions from January through July 1999, with more than 200,000 processed in July alone.[455] In addition, KPMG found that Bell Atlantic's pre-ordering interfaces and systems are capable of handling projected year-end 1999 volumes.[456] KPMG also evaluated Bell Atlantic's network architecture and found that its systems have sufficient capacity to meet expected future usage volumes.[457]

151. We also reject assertions by AT&T and MCI WorldCom that Bell Atlantic is not providing parsed CSR responses in competitive timeframes.[458] As discussed above, parsed CSR functionality is necessary for carriers to integrate CSR data into their own back office systems. Because Bell Atlantic's retail representatives do not retrieve parsed CSRs, Bell Atlantic must provide access to parsed CSR functionality that affords an efficient competitor a meaningful opportunity to compete.

152. As an initial matter, we recognize that, for parsed CSR retrieval, unlike other pre-ordering transactions, Bell Atlantic must perform the additional step of parsing CSR information into identifiable fields prior to sending the information to the carrier. In light of this extra processing step, Bell Atlantic and competing carriers agreed in the Carrier-to-Carrier collaborative that the performance standard applicable to other pre-ordering response times should be modified for parsed CSR retrieval.[459] Specifically, in late September, Bell Atlantic agreed to measure the timeliness of parsed CSR information according to a standard of "parity with retail unparsed CSR plus ten seconds," based on simulated transactions.[460] Moreover, in the

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[454] *See* New York Commission Comments at 40.

[455] Bell Atlantic Application at 38. Furthermore, in response to commenters' claims that the pre-ordering interfaces are deficient, Bell Atlantic notes that the interfaces handled more than 283,000 pre-order transactions in September. Bell Atlantic Reply at 32; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 5.

[456] *See* KPMG Final Report at POP5 IV-102 (showing daily pre-order submission volume of 3,400 for the EDI functional evaluation; 10,500 for the EDI normal volume tests; and 13,200 for the EDI peak volume test); *see also id.*, at POP6 IV-139, 145 (showing submission of 15,269 pre-order requests in a 4-hour period during EDI stress test). During the stress test, KPMG found that Bell Atlantic's pre-order systems were able to maintain operability at levels up to 119 percent above the baseline established for peak volume testing, which represents a 50-percent increase over normal daily volume. KPMG Final Report at POP6 IV-149.

[457] *See* KPMG Final Report at POP13 IV-300-314 (scalability review of interfaces and architecture).

[458] AT&T Crafton/Connolly Reply Aff. at paras. 37-38; MCI WorldCom Comments at 29; MCI WorldCom Reply at 19.

[459] *See* Bell Atlantic Nov. 24 *Ex Parte* Letter at 2.

[460] *See* Bell Atlantic Dowell/Canny Reply Decl. at para. 13. The New York Commission recently adopted "parity with retail unparsed CSR plus tens seconds" as a performance standard for parsed CSR retrieval. *NYPSC Additional*

present proceeding, MCI WorldCom supports a similar ten-second standard for parsed CSR retrieval.[461] Accordingly, we find that, for purposes of our analysis, a performance standard of parity with unparsed CSR retail response time plus ten seconds is a reasonable and appropriate measure of whether Bell Atlantic processes parsed CSR inquiries in a manner that allows an efficient carrier a meaningful opportunity to compete.

153. Performance data indicates that Bell Atlantic provides timely access to parsed CSRs. In response to commenters' claims regarding parsed CSR timeliness, Bell Atlantic submitted data on reply showing that in early October Bell Atlantic took, on average, 7.42 seconds to respond to parsed CSR inquiries.[462] Although AT&T and MCI WorldCom assert that it takes much longer to receive parsed CSR responses,[463] in view of the general and conclusory nature of their assertions, we have no confidence that the claimed longer response times are attributable to Bell Atlantic and not to delay in AT&T's or MCI WorldCom's own systems.[464] Accordingly, we find these allegations insufficient to refute Bell Atlantic's performance data. We therefore conclude that the record evidence demonstrates that Bell Atlantic is processing parsed CSRs in a manner that affords competitors a meaningful opportunity to compete.

154. *Interface Availability.* We conclude that Bell Atlantic demonstrates that its interfaces[465] are available in a manner that affords an efficient competitor a meaningful opportunity to compete.[466] A stable, reliable pre-ordering interface is necessary for competing

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Guidelines Order at 15; *see also* New York Commission Reply at 17. Although this standard was not formally adopted by the New York Commission until November 5, 1999, given that Bell Atlantic committed to the standard in collaborative meetings in late September and that we find the measure to be reasonable, we do not believe that we are precluded from independently relying on this standard for purposes of our analysis.

[461] *See* MCI WorldCom Comments at 29; MCI WorldCom Reply at 18 (indicating that MCI WorldCom can presently operate in a competitive market if Bell Atlantic meets a 10-second standard for parsed CSR retrieval).

[462] Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 21, Attach. A (listing daily average parsed CSR response time for October 5 through October 14, 1999).

[463] MCI WorldCom asserts generally that it takes between 10 to 15 seconds during the day (9:00 a.m. to 5:00 p.m.) and 20 to 40 seconds in the evening (6:00 p.m. to 9:00 p.m.) to receive responses for its parsed CSR inquiries. MCI WorldCom Reply at 19. *See also* MCI WorldCom Comments at 29; MCI WorldCom Lichtenberg/Sivori Decl. at para. 62 (claiming that it experiences intervals of between 15 and 20 seconds for parsed CSRs). AT&T claims that "response times on CORBA have been as long as 45 seconds in some instances," but notes that "CORBA has been in commercial production for too short a time for AT&T to provide comprehensive data." AT&T Crafton/Connolly Reply Aff. at para. 38.

[464] *See* Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 21 (noting that Bell Atlantic has no ability to measure what happens on MCI WorldCom's side of the firewall, and that MCI WorldCom personnel have informed Bell Atlantic that they have experienced problems on MCI WorldCom's side of the firewall).

[465] In this section we evaluate the availability of Bell Atlantic's interfaces for all functionality, including the EDI, Web GUI and CORBA for pre-ordering, ordering, and maintenance and repair functions.

[466] *See* New York Commission Comments at 41 (concluding that Bell Atlantic is providing satisfactory interface availability). With respect to its back office pre-ordering systems, Bell Atlantic states that it periodically takes these systems out of service for routine maintenance, during which time they are equally unavailable to competing

carriers to market their services and serve their customers as efficiently and at the same level of quality that Bell Atlantic provides to itself. The Commission previously has found that the unavailability of an interface could directly and negatively affect a carrier's interaction with its customers.[467]

155. Bell Atlantic measures EDI interface availability 24 hours a day using the EnView emulation system.[468] Based on the Carrier-to-Carrier collaborative proceeding, the New York Commission established a performance standard requiring that Bell Atlantic's interfaces be available at least 99.5 percent of their scheduled availability during prime-time hours, using simulated responses.[469] As an initial matter, we find that the designation of prime time hours from 6:00 a.m. to 12:00 a.m., Monday through Saturday, appropriately captures critical hours in which competing carriers access the interfaces. Given the broad designation of prime time, we find the 99.5-percent standard a reasonable and appropriate measure of whether Bell Atlantic's interfaces are sufficiently available to afford an efficient competitor a meaningful opportunity to compete. Although competing carriers may also input pre-order transactions outside of these hours, we find it unlikely that they will have a customer on the line during those hours. For this reason, minor interface downtime during non-prime time hours is not as likely to deprive an efficient competitor of a meaningful opportunity to compete.[470] We therefore find that Bell Atlantic's interface availability during non-prime time hours is a less important indicator of its ability to provide nondiscriminatory access to its OSS functions.[471]

156. We base our conclusion that Bell Atlantic's interfaces are sufficiently available on performance data from July through September 1999 showing that Bell Atlantic's interfaces were generally available as scheduled.[472] For prime time hours, the EDI interface was available 100

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carriers as well as Bell Atlantic's retail representatives. We find no evidence on the record that Bell Atlantic discriminates in the availability of its back office pre-ordering systems.

467 *See BellSouth South Carolina Order*, 12 FCC Rcd at 637-38.

468 Bell Atlantic Dowell/Canny Decl. at paras. 25-27, Attach. A at 8-9.

469 *See* Bell Atlantic Dowell/Canny Decl. Attach. B at 8. We are further encouraged by, but our decision does not rely on, the New York Commission's recent modifications to the methodology used to calculate interface availability. *See NYPSC Additional Guidelines Order*, at 15-16 (reporting that Bell Atlantic will include actual outages reported by carriers as well as outages captured by the EnView simulations, change the EnView system to send transactions on average every six minutes rather than fifteen, and make available for inspection by carriers its logs of carrier-reported outages).

470 We also note that Bell Atlantic performs necessary maintenance on the interfaces during non-prime time. Bell Atlantic Miller/Jordan Decl. at para. 26.

471 We note that the New York Commission did not establish a performance standard for non-prime time. *See* Bell Atlantic Dowell/Canny Decl. Attach. B at 8-9.

472 Because Bell Atlantic began reporting availability for the EDI interface in July, we do not rely on earlier data in this section.

percent of its scheduled time in July and August 1999, and 99.94 percent in September.[473] During non-prime time, the EDI interface was available 99.9 percent of its scheduled time in June and 100 percent in July and August.[474] Although the availability dropped to 97.01 percent in September,[475] because we place less emphasis on this metric, we do not consider unavailability for three percent of non-prime time hours to present a barrier to an efficient competitor's ability to meaningfully compete by completing transactions in a timely manner.

157. We also base our conclusion on KPMG's verification that Bell Atlantic's interfaces are consistently available during scheduled hours of operation. Despite noting some instances of connectivity interruption or system unavailable error messages, KPMG found that Bell Atlantic's EDI and Web GUI interfaces for pre-ordering and ordering were "consistently available."[476] Furthermore, in its limited test of parsed CSR functionality, KPMG did not experience any outages or system unavailable errors.[477] We also note that, following the KMPG test results, Bell Atlantic improved its File Transfer Protocol (FTP) process to resend files automatically and to alarm Bell Atlantic support staff if FTP transmissions are not successful.[478] Given the evidence in the record, we reject claims by AT&T and MCI WorldCom that Bell Atlantic's interfaces are not available sufficiently to afford competitors a meaningful opportunity to compete.[479]

f. Ordering

158. In this section we address Bell Atlantic's ability to provide access to its OSS

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[473] Bell Atlantic Dowell/Canny Decl. Attach. D at 73, 84, 96 (metric PO-2-02 for June, July and August 1999); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 1 (metric PO-2-02 for September 1999). In June, Bell Atantic reported interface availability only for the EIF interface.

[474] Bell Atlantic Dowell/Canny Decl. Attach. D at 73, 84, 96 (metric PO-2-03 for July and August 1999).

[475] Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 1 (metric PO-2-03 for September 1999).

[476] *See* KPMG Final Report at POP5 IV-106, 110-111 (noting some "sporadic and not routinely experienced" disconnections of the EDI ordering interface). During its functional evaluation of the Web GUI, KPMG did not experience any outages or down time for pre-ordering capability, although it did experience some temporary outages for ordering capability. *See* KPMG Final Report at POP2 IV-34; POP2 IV-37.

[477] KPMG Final Report at POP5 IV-135.

[478] Bell Atlantic Miller/Jordan Decl. at para. 28.

[479] Although commenters report periodic interface outages, they fail to assert that the reported outages are not captured in the relevant performance measurements. For example, MCI WorldCom states that it has experienced "periodic failures" of the EDI pre-ordering interface. MCI WorldCom Comments at 28; MCI WorldCom Lichtenberg/Sivori Decl. at paras. 61, 139-40; MCI WorldCom Reply at 19-20 (indicating that the EDI pre-ordering interface was down 11 times from September 3 through October 19); MCI WorldCom Lichtenberg/Sivori Reply Decl. at para. 10, Attach. 1. In addition, AT&T claims that since it began using CORBA for commercial production in October, the interface has failed on a number of occasions. When CORBA was down, AT&T used the Web GUI to conduct pre-order transactions. AT&T Crafton/Connolly Reply Aff. at paras. 34, 89-94.

ordering functions to competing carriers.[480] We conclude that Bell Atlantic demonstrates that it provides nondiscriminatory access to its ordering systems in accordance with the requirements of section 271. In addition, we find that Bell Atlantic shows that its systems will be able to meet reasonably foreseeable commercial volumes in the future. We note that the New York Commission also concludes that Bell Atlantic is able to satisfactorily process orders and that its ordering systems are scalable.[481] We also conclude that Bell Atlantic satisfies its obligation to provide access to order status and jeopardy information, to the extent it is available, in a nondiscriminatory manner. Finally, we conclude that Bell Atlantic provides nondiscriminatory access to order completion notification.

(i) Background

159. Bell Atlantic's interfaces provide competing carriers with electronic access for a full range of ordering functionality.[482] Competing carriers may place service orders with Bell Atlantic over either an EDI interface or a Web GUI. As of the filing date of this application, six carriers were using EDI for ordering and three were in the certification process, which is a precursor to the use of EDI.[483] In addition, over 100 competing carriers were using the Web GUI at the time of filing.[484] Once an order is received, Bell Atlantic responds with either a "Local Service Request Confirmation" (order confirmation) notice or a "Local Service Request Rejection" (order rejection) notice.[485] These notices are important because they provide information to a competing carrier about whether its order has been accepted, or whether it has been rejected and requires resubmission.[486]

160. Bell Atlantic generates order confirmation and rejection notices as a result of either mechanized or manual processing of orders, and returns them electronically over the GUI or EDI interface regardless of how they were processed.[487] Bell Atlantic's operations support

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480 Ordering functions for DSL capable loops are addressed in the DSL discussion of Checklist Item 4, *infra*, at section V.D.2.c.

481 New York Commission Comments at 16 (concluding that Bell Atlantic has demonstrated its ability to "satisfactorily process orders" and that its "automated and manual processes are scalable.").

482 *See* Bell Atlantic Application at 40. KPMG Final Report at POP5 IV-111 (Test P5-8) ("BA-NY system or representative provides required order transaction functionality").

483 Bell Atlantic Miller/Jordan Decl. at para. 35. Of the six competing carriers using EDI for ordering functions, multiple carriers are using it to order UNEs and resale services. *See id.*; Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 (filed December 17, 1999) (listing carriers using EDI for UNE and resale service ordering).

484 Bell Atlantic Miller/Jordan Decl. at para. 35.

485 Bell Atlantic Miller/Jordan Decl. at para. 34; New York Commission Comments at 41. An order is confirmed when it is accepted into Bell Atlantic's Service Order Processor and rejected when it contains certain kinds of errors. Bell Atlantic Miller/Jordan Decl. at para. 41.

486 *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20678, 20680; *see* Bell Atlantic Application at 40.

487 Bell Atlantic Miller/Jordan Decl. at paras. 38-43. Bell Atlantic will accept resale and UNE POTS orders only over either EDI or the Web GUI. Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 20. In contrast, for non-POTS

systems generate a mechanized order confirmation or rejection notice automatically (*i.e.*, without human intervention) if the order is able to "flow-through."[488] For orders that do not flow-through, Bell Atlantic generates order confirmation and rejection notices after the order is manually processed by Bell Atlantic wholesale representatives. The Carrier-to-Carrier guidelines, which were established by the New York Commission in conjunction with Bell Atlantic and the competing carriers, require the return of 95 percent of *mechanized* order confirmation and rejection notices within two hours of submission to Bell Atlantic, and 95 percent of *manually* processed order confirmation and rejection notices under ten lines within 24 hours of submission.[489] We find that this standard, developed as a result of a collaborative proceeding including Bell Atlantic and competing carriers, is generally a reasonable measure of whether Bell Atlantic processes orders in a manner that provides an efficient competing carrier with a meaningful opportunity to compete.[490] As demonstrated below, Bell Atlantic generally meets these standards, and where Bell Atlantic has fallen short of the standards, the shortfall has not been significant.

UNE orders and interconnection trunk orders, Bell Atlantic will accept facsimile and mail orders in addition to accepting orders over EDI or the Web GUI. *Id.*

[488] Bell Atlantic Miller/Jordan Decl. at para. 41; *see* Bell Atlantic Miller/Jordan Decl. Attach. D at 1. A competing carrier's orders "flow-through" if they are transmitted electronically through the gateway and accepted into Bell Atlantic's back office ordering systems without manual intervention. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20671; *see also* Bell Atlantic Dowell/Canny Decl. Attach. B at 79 (defining "mechanized flow-through" as "[o]rders received electronically through the ordering interface (DCAS) and requiring no manual intervention to be entered into the SOP"). Although under this definition a "rejected" order does not "flow-through," some commenters in this proceeding refer generally to orders that are mechanically processed by Bell Atlantic's systems without human intervention as "flowing-through." Bell Atlantic has designed its system to flow-through certain order types. Bell Atlantic Miller/Jordan Decl. at para. 38. Order types that are not designed to flow-through will drop out of Bell Atlantic's systems for manual processing. Bell Atlantic Miller/Jordan Decl. at para. 42. Moreover, for orders containing certain types of errors, such as mis-typed address information, Bell Atlantic has designed the system to direct the order for manual correction by Bell Atlantic representatives, rather than rejecting the order. Bell Atlantic Miller/Jordan Decl. at para. 41.

[489] Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 21. These standards apply only for UNE and resale POTS orders under ten lines and certain "pre-qualified" complex orders under ten lines. Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 21. The New York Commission established a 48 hour standard for manually processed resale and UNE special services orders under 10 lines, and a 72 hour standard for all manually processed resale and UNE orders of greater than or equal to ten lines. Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 21. We do not analyze Bell Atlantic's performance for such orders because the relative volumes of orders in these categories are too low to make a meaningful judgment.

[490] In prior orders the Commission concluded that ordering functions for unbundled network elements have no retail analogue. *Ameritech Michigan Order*, 12 FCC Rcd at 20619. In contrast, the Commission has previously found that resale ordering functions have a retail analogue and, as such, BOCs must provide resale ordering functions to competing carriers in substantially the same time and manner as the incumbent performs that function for itself. *Ameritech Michigan Order*, 12 FCC Rcd at 20616. In this application, the New York Commission has established benchmark standards to measure Bell Atlantic's ability to provide order status notices to competitors in a timely fashion, as it concluded that there are no retail analogues for ordering in Bell Atlantic's system. New York Commission Comments at 42. These benchmarks apply to both UNEs and resale. Bell Atlantic Dowell/Canny Decl. Attach. B at 17, 21. We find that the New York Commission's benchmarks, which were established in a collaborative proceeding, provide a reasonable means of comparison for purposes of the instant proceeding.

(ii) Discussion

161. As an initial matter, we find that, unlike prior section 271 orders where the Commission began its analysis of access to ordering functions with a discussion of order "flow-through rates," a number of factors present in this application weigh against doing so here.[491] Specifically, in prior orders the Commission asserted that the "substantial disparity between the flow-through rates of the [applicant] and those of competing carriers, on its face, demonstrate[d] a lack of parity."[492] To the extent that these prior statements could be read to suggest that flow-through rates standing alone are a conclusive measure of nondiscriminatory access to ordering functions, we now clarify that when presented with circumstances like those in the instant record it is unnecessary to focus on order flow-through rates to the same degree we have in past orders.[493] As explained below, the record in this proceeding indicates that Bell Atlantic's provision of access to its ordering functions is substantially better than in any other prior application. When considered in the context of such performance, we find that it would be inappropriate to consider order flow-through rates as the sole indicia of parity.

162. The Commission has, in part, used order flow-through as a potential indicator of a wide range of problems that underlie a determination of whether a BOC provides nondiscriminatory access to its OSS. Where, as in this application, other evidence shows that such problems do not exist, however, it is unnecessary to center our analysis on flow-through rates.[494] For example, in the *Second BellSouth Louisiana* order, the Commission expressly found that the low order flow-through in the record was indicative of deficiencies in a BOC's systems for which the Commission also had other independent record evidence, including: (1) the failure to provision orders in a timely manner, (2) the failure to provide competing carriers with complete, up-to-date, business rules and ordering codes; (3) the lack of integration between pre-ordering and ordering functions; and (4) the failure to provide order status notices electronically.[495] We have also used flow-through rates as an indicator of a BOC's ability to process competing carriers' orders, at reasonably foreseeable commercial volumes, in a

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[491] *See, e.g.*, Second *BellSouth Louisiana Order*, 13 FCC Rcd at 20670-71; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6263; *BellSouth South Carolina* Order, 13 FCC Rcd at 599.

[492] Second *BellSouth Louisiana Order*, 13 FCC Rcd at 20670; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6263; *BellSouth South Carolina* Order, 13 FCC Rcd at 599.

[493] Second *BellSouth Louisiana Order*, 13 FCC Rcd at 20670-71; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6263; *BellSouth South Carolina* Order, 13 FCC Rcd at 599.

[494] Commenters argue that Bell Atlantic's flow-through rates are insufficient and therefore fail to satisfy section 271. AT&T Comments at 16-17; Choice One Comments at 11; MCI WorldCom Comments at 10; NY Attorney General Comments at 12-13; NorthPoint Comments at 14; *see* Covad Comments at 29-30. Because we conclude that, under the facts of this application, we need not focus on flow-through rates, we find that such arguments are not dispositive of our analysis.

[495] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20671; *First BellSouth Louisiana Order*, 13 FCC Rcd at 6259-70, 77; *BellSouth South Carolina Order*, 13 FCC Rcd at 597-611.

nondiscriminatory manner.[496] Flow-through rates, therefore, are not so much an end in themselves, but rather are a tool used to indicate a wide range of possible deficiencies in a BOC's OSS that may deny an efficient competitor a meaningful opportunity to compete in the local market.

163. Unlike the BOC systems we examined in prior orders, none of the specific deficiencies that we have previously associated with low flow-through rates is present in Bell Atlantic's systems. As discussed above, Bell Atlantic provides virtually all order status notices electronically,[497] provides complete, up-to-date, business rules and ordering codes,[498] makes integrated pre-ordering and ordering interfaces available through EDI,[499] and, as discussed below, provisions orders in a timely fashion.[500] Moreover, as discussed more fully below, we find that Bell Atlantic scales its system as volumes increase, and demonstrates its ability to continue to do so at reasonably foreseeable volumes. As a result, in this application flow-through has significantly less value as an indicator of deficiencies of Bell Atlantic's OSS. Thus, a different analysis is warranted. Specifically, in light of the facts and circumstances of this application, we conclude that Bell Atlantic's overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems is more relevant and probative for analyzing Bell Atlantic's ability to provide access to its ordering functions than a simple flow-through analysis. We note that this approach is consistent with the New York Commission's view that Bell Atlantic's order flow-through is not the only indicator of Bell Atlantic's ability to process orders in a nondiscriminatory fashion or to meet significant increases in order volumes.[501]

(a) Unbundled Network Element Orders

164. We find that Bell Atlantic demonstrates that it is providing nondiscriminatory access to its OSS ordering functions for unbundled network elements (*i.e.*, UNE-loop and UNE-platform). We note that Bell Atlantic supports its application with Carrier-to-Carrier performance data, which aggregates UNE-loop and UNE-platform data, and the New York Commission based its initial comments on this aggregated data.[502] Although we analyze Bell

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[496] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20671; *see Performance Measurements NPRM*, 13 FCC Rcd at 12850 (flow-through rate "serves as a yardstick to evaluate whether an incumbent LEC's OSS is capable of handling reasonably foreseeable commercial volumes of orders").

[497] *See* discussion *supra* paras 160.

[498] *See* discussion *supra* paras. 127, 131. *See* also Bell Atlantic Miller/Jordan Decl. at paras. 87-91.

[499] *See* discussion *supra* paras. 137-39.

[500] *See* discussion *infra* paras. 173-210; *see also* paras. 287-88, 292-98.

[501] New York Commission Reply at 11. We note that the New York Commission focused its analysis of Bell Atlantic's ordering functions on on-time order processing. New York Commission Comments at 44; New York Commission Reply at 11.

[502] Bell Atlantic Dowell/Canny Decl. Attach. D at 78, 90, 102 (metrics OR-1 and OR-2); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7; New York Commission Comments at 43. In contrast, the Department of Justice submitted data disaggregated by UNE-loop and UNE-platform for the first time in its evaluation.

Atlantic's provision of ordering access using primarily aggregated UNE data, we conclude that our analysis would yield the same results were we to examine disaggregated data.[503] In recent months Bell Atlantic has met, or has come very close to meeting, the strict benchmark standards for on-time processing of unbundled network element orders established in the Carrier-to-Carrier proceeding.[504] According to the New York Commission's own calculations, Bell Atlantic's

Department of Justice Evaluation at 15 n.28 (noting that Bell Atlantic provided Department of Justice with "supplemental data disaggregating its UNE-L and UNE-P performance" after filing its section 271 application and that "[t]o the Department's knowledge, these data have not been provided to the Commission, the NYPSC or the CLEC community for review.") On reply and in subsequent *Ex Partes*, the New York Commission submitted analyses of the Carrier-to-Carrier data in aggregated and disaggregated form. New York Commission Reply at 13; *id.* at Exh. 1; Letter from Penny Rubin, Managing Attorney, New York Department of Public Service, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 (filed December 7, 1999) (New York Commission Dec. 7 *Ex Parte* Letter) (resale data and aggregated UNE data); Letter from Penny Rubin, Managing Attorney, New York Department of Public Service, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 (filed Dec. 2, 1999) (New York Dec. 2 *Ex Parte* Letter) (disaggregated UNE-loop and UNE-platform data).

[503] For example, as the New York Commission has shown, Bell Atlantic is able to provide order confirmation and rejection notices for UNE-loop and UNE-platform in a manner that provides efficient competitors a meaningful opportunity to compete even when disaggregated data is considered. New York Commission Reply Evaluation, Exh. 1 (showing, for example, that in September Bell Atlantic delivered order confirmation and rejection notices on time 89% of the time for UNE-loop and 94% for UNE-platform). In contrast, the Department of Justice concluded that Bell Atlantic has not met its obligation to provide order confirmation and rejection notices in a timely manner for UNE-loops and UNE-platform. Department of Justice Evaluation at 15, 31-32. After careful consideration of the Department of Justice's evaluation we conclude, however, that the evidence demonstrates that Bell Atlantic is providing nondiscriminatory access to its ordering functions for both UNE-loops (including hot cuts) and UNE-platform. In addition to the reasons discussed more fully in this section, we note that our conclusions are based, in part, upon September performance data submitted by both Bell Atlantic and the New York Commission that the Department of Justice did not discuss in its evaluation. *See, e.g.*, Department of Justice Evaluation at 16 & n.29, 31-32 & n.86. Thus, although we recognize that there may be circumstances in which we find it appropriate to examine disaggregated data in the context of analyzing the ordering access a BOC provides to competing carriers, those circumstances do not present themselves in this application.

[504] In June, July, August and September respectively, Bell Atlantic returned 98, 97, 99,and 89 percent, of mechanized order confirmation notices within two hours, and 80, 80, 88, and 89 percent of manually processed order confirmation notices within 24 hours. Bell Atlantic Dowell/Canny Decl. Attach. D at 78, 90, 102 (metrics OR-1-02 and 1-04); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same); Letter from Dee May, Director, Federal Regulatory Group; Bell Atlantic, to Magalie Salas, Secretary, Federal Communications Commission, CC Docket No. 99-295, Attach. at 2 (filed Dec. 17, 1999) (Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data). For those same months, respectively, Bell Atlantic returned 86, 87, 94 and 93 percent of mechanized order rejection notices within two hours, and 71, 71, 83 and 91 percent of manually processed order rejection notices within 24 hours. Bell Atlantic Dowell/Canny Decl. Attach. D at 78, 90, 102 (metrics OR-2-02, 2-04); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same); Bell Atlantic December 17, 1999 *Ex Parte* Letter correcting September data, Attach. at 2. On December 17, 1999, Bell Atlantic filed an *ex parte* letter correcting data for September that it filed as part of the Carrier-to-Carrier reports, which Bell Atlantic submitted on reply. Bell Atlantic explains that it did not properly conform to a change, first instituted in September, in the way the New York Commission required Bell Atlantic to classify certain orders (affecting metrics OR-1-01 through 1-04 and OR-2-01 through 2-04). *Id.* at 1. This reclassification caused Bell Atlantic's performance in September to show an anomalous dip that does not reflect a change in Bell Atlantic's actual performance when compared to prior months. Letter from Dee May, Director, Federal Regulatory Group; Bell Atlantic, to Magalie Salas, Secretary, Federal Communications Commission, CC Docket No. 99-295 at 1-2 (filed December 17, 1999) (Letter explaining September correction).

performance in providing on-time order confirmation and rejection notices, whether manually processed or mechanized, was about 94 percent for August and September and has been trending upwards.[505] Similarly, in recent months Bell Atlantic's average time for returning an order confirmation or rejection notice, whether manual or mechanized, was between six and eight hours and has also been improving.[506] We note that even when orders are manually processed by Bell Atlantic, competing carriers are still receiving their order status notices electronically and, for nearly all of their orders, within twenty-four hours of placing the order. Notably, Bell Atlantic has improved its on-time performance despite the fact that monthly volumes of UNE orders have increased from over 8,600 orders in January to almost 70,000 orders in September.[507] Accordingly, we find that Bell Atlantic's ability to process nearly all competing carrier UNE orders in under 24 hours, and a majority of such orders within two hours of submission, provides an efficient competing carrier with a meaningful opportunity to compete. Should Bell Atlantic's performance deteriorate, however, we will be prepared to take appropriate enforcement action.

165. We note that Bell Atlantic's ability to process such large order volumes in a timely fashion is in stark contrast to any BOC's performance the Commission has considered in previous section 271 proceedings.[508] The record indicates that Bell Atlantic is able to process orders more quickly than other BOCs in prior section 271 proceedings. For example, in the *Second BellSouth Louisiana Order* the Commission noted that BellSouth only returned order confirmation notices, on average, over 18 to 19 hours after it received an order, and over 21 to 27

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[505] New York Commission Reply, Exh. 1, page 1; New York Commission Reply at 11; New York Commission Dec. 7 *Ex Parte* Letter (88, 88, 94, and 94 percent of all UNE orders received confirmation or rejection notices on time during June, July, August and September, respectively). AT&T also asserts that Bell Atlantic's performance in providing "order acknowledgments" for orders placed over the EDI interface declined in September. AT&T Crafton/Connolly Aff. at para. 257. We note, however, that we have never required the provision of acknowledgements for the purposes of satisfying section 271.

[506] On average, for June, July, August, and September Bell Atlantic returned order confirmation notices in 8.48, 8.84, 6.16, and 6.46 hours, respectively, and order rejection notices in 16.28, 12.63, 8.12, and 6.20 hours, respectively. These averages were calculated by Commission staff from the Carrier-to-Carrier data provided by Bell Atlantic. Bell Atlantic Dowell/Canny Decl. Attach. D at 78, 90, 102 (metrics OR-1 and OR-2); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data, Attach at 2.

[507] New York Commission Dec. 7 *Ex Parte* Letter (Total UNE order volumes: January (8,612), February (15,442), March (19,796), April (39,427), May (45,136), June (72,121), July (58,575), August (64,350), September (69,791)).

[508] For example, in the *Ameritech Michigan Order* the Commission observed, over the course of the first *four* months of 1997, that Ameritech received almost 20,000 resale orders over its EDI interface for the state of Michigan. 12 FCC Rcd at 20629-30 (Ameritech represented that it received 19,671 orders over EDI and accepted, and processed, 17,789 of those orders). In the *BellSouth South Carolina Order* we noted that BellSouth received, on a region-wide basis for one month, 6,715 resale orders through its EDI interface. 13 FCC Rcd at 596. In contrast, in the month of September in the state of New York alone Bell Atlantic processed almost 20,000 resale orders, over half of which were received over EDI, and 70,000 UNE orders, almost 50,000 of which were received over EDI. Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 at 2 (filed November 17, 1999) (listing volumes by individual carriers over EDI and GUI interfaces); *see* New York Commission Dec. 7 *Ex Parte* Letter. Virtually all of the orders not received over EDI are received over the GUI.

percent of such notices were returned beyond a 24 hour interval.[509] In contrast, in recent months Bell Atlantic has returned order confirmation notices, on average, within about five to eight hours and, as discussed above, returns nearly all order confirmation and rejection notices within 24 hours.[510]

166. Even considering Bell Atlantic's flow-through,[511] however, we conclude that the Carrier-to-Carrier flow-through rate is not reflective of the actual flow-through capabilities of Bell Atlantic's systems.[512] The record shows that Bell Atlantic's systems are *capable* of

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[509] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20681, para. 122 & n.420. Bell Atlantic's performance is also significantly better than the BOC performance described in other section 271 orders. We note that this is the first time the Commission has done a full analysis of UNE ordering in a section 271 order. We conclude, however, that our precedent regarding resale ordering is generally applicable to UNE ordering. For example, in the *Ameritech Michigan Order*, between 14 and 45 percent of order confirmation notices were not returned to competing carriers within three days and, based upon monthly averages, it took as many as six days to return rejection notices to competing carriers. *Ameritech Michigan Order*, 12 FCC Rcd at 20643. Evidence in the record in the *South Carolina Order* indicated that carriers did not receive 38 to 90 percent of their order confirmation notices in 24 hours, and for one carrier it took on average took up to 7 days from submission to receive such notices. *BellSouth South Carolina Order*, 13 FCC Rcd at 608. The evidence in the *First BellSouth Louisiana Order* showed that BellSouth only returned between 20 to 62 percent of competing carrier orders confirmation notices within 24 hours, and for one carrier it took an average of 3.5 workdays to receive an order confirmation. *First BellSouth Louisiana Order*, 13 FCC Rcd at 6268-69. In the *Second BellSouth Louisiana Order*, for *electronically* submitted orders for resale residential service, BellSouth returned a reject notice on average somewhere between 2 and 8 days after it received an order, depending on the month. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20679-80. Further, over 37 percent of such notices were returned beyond a 24 hour interval. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20679-80. For *manually* submitted orders for resale residential service, the average reject notice inteval was 1.61 days, and over 63 percent of such notices were returned beyond a 24 hour interval. *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20679-80.

[510] We also note that, unlike Bell Atlantic, which returns rejection and order confirmation notices over electronic interfaces, in prior applications BellSouth returned some notices by facsimile. *First BellSouth Louisiana Order*, 13 FCC Rcd at 6262; *BellSouth South Carolina Order*, 13 FCC Rcd at 598-99. Electronic notifications are superior to faxed notifications because they are quicker and do not require competing carriers to manually reenter information from the notice into their OSS.

[511] Bell Atlantic has asserted that retail flow-through is a "misnomer" for its systems. Bell Atlantic Miller/Jordan Decl. at para. 57; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 37. Specifically, Bell Atlantic claims it is a misnomer because "every retail order must be typed by a BA-NY representative in order to enter it into the service order processor." Bell Atlantic Miller/Jordan Decl. at para. 57; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 37. Moreover, the New York Commission has agreed that there is not a retail analogue for Bell Atlantic's systems. New York Commission Comments at 42 ("Since there is no retail analogue in Bell Atlantic-NY's retail system, ordering metrics are 'absolute standard' metrics."). In the alternative, Bell Atlantic argues on Reply that an evaluation of all its October retail orders shows that 61.5% of its retail orders "flow-through." Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 39; *see also id.* Attach. E. Because this number is derived from an evaluation of data from the entire month of October, and therefore post-dates the comment filing date, we accord it no weight. Given New York and Bell Atlantic's conclusion that a retail analogue does not exist, and in absence of a credible retail analogue in the record, we find that for purposes of this application Bell Atlantic must demonstrate that the access it provides to its ordering functions offers an efficient carrier a meaningful opportunity to compete.

[512] The Carrier-to-Carrier reports indicate that overall UNE orders flowed-through 59.28 percent and 62.81 percent of the time for August and September, 1999, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 102 (metric OR-5-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same).

providing high levels of order flow-through, but are dependent, in part, on the performance of competing carriers to achieve high rates. We first examine commercial usage data because it is the most probative evidence that Bell Atlantic's ordering systems are operationally ready.[513] To obtain the most accurate picture of a competing carrier's ability to access Bell Atlantic's ordering functions we look to the actual flow-through rates of individual carriers. Flow-through rates disaggregated by carrier show that the rates for competing carriers submitting UNE-platform orders in September range from about 1 to 83 percent.[514] Similarly, the rates for carriers submitting UNE-loop orders range from about 1 to74 percent in September.[515] Because all competing carriers interface with the same Bell Atlantic system, this wide range of results strongly implies that the competitors, rather than Bell Atlantic, are largely responsible for any "poor" UNE flow-through performance. For example, one such cause is competing carrier error. Bell Atlantic manually corrects certain types of errors in competing carrier orders, rather than rejecting such orders.[516] The New York Commission found that over 30 percent of the orders that fail to flow-through are caused by such errors.[517] In its evaluation, the New York Commission attributes the "bulk" of the competing carrier errors to typographical errors and notes that such errors should be eliminated with the implementation of integrated pre-order and order interfaces.[518]

167. In prior orders the Commission has noted that a BOC is not accountable for flow-through problems that are attributable to competing carriers' errors.[519] The Commission has previously rejected BOCs' claims that competing carrier "error" caused orders to be rejected or to fail to flow-through because we could not make a judgment regarding how many of the errors the BOC attributed to the competing carriers should have been assigned to the BOC for failure to

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513 *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20655; *BellSouth South Carolina Order*, 13 FCC Rcd at 593; *Ameritech Michigan Order*, 12 FCC Rcd at 20618.

514 Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295, Attach 1 (filed November 19, 1999) (Bell Atlantic Nov. 19 *Ex Parte* Letter) (listing volumes and flow-through rates by individual carriers for UNE-platform and UNE-loop). Indeed, we note that those carriers submitting among the largest volumes of orders have achieved high flow-through rates.

515 Bell Atlantic Nov. 19 *Ex Parte* Letter.

516 Bell Atlantic Miller/Jordan Decl. at para. 60; Bell Atlantic Miller/Jordan Reply Decl. at para. 36. The Commission has recognized in previous orders that there are limited circumstances in which manual intervention is appropriate. *BellSouth South Carolina Order*, 13 FCC Rcd at 599, 107. We find that manually correcting and processing orders containing errors instead of rejecting them is one such circumstance. Bell Atlantic notes that if it were to reject such orders instead of correcting them, its flow-through rates would be much higher than currently reported. Bell Atlantic Miller/Jordan Reply Decl. at para. 36 (projected 75% flow-through for UNEs).

517 New York Commission Comments at 46; *see also* Bell Atlantic Application at 43 n.37.

518 New York Commission Comments at 46 n.2. The New York Commission also concludes that flow-through suffers as competing carriers enter the market, and hire and train new employees. New York Commission Reply at 13.

519 *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20674.*First BellSouth Louisiana Order*, 13 FCC Rcd at 6263.

provide clear business rules or integrated pre-ordering and ordering interfaces.[520] We find that the record in this application demonstrates that Bell Atlantic's integration of its interfaces and timely and up-to-date business rules supports Bell Atlantic and the New York Commission's contention that such competing carrier errors are attributable to the actions of competing carriers. Based upon this evidence, we find that the bulk of these "errors" can be properly attributed to competing carriers that, for example, choose not to integrate their interfaces, do not adequately train and manage their employees, or do not invest in the necessary systems.

168. Second, KPMG's test also supports our conclusion that Bell Atlantic's systems are capable of achieving high rates of order flow-through. KPMG tested the ability of EDI and GUI orders to flow from competing carriers through the interface into the Bell Atlantic ordering system without human intervention.[521] KPMG's test shows that Bell Atlantic's systems can achieve UNE-platform flow-through rates of over 99 percent and UNE-loop flow-through of over 85 percent for orders designed to flow-through.[522] KPMG also found that over 99 percent of all UNE orders designed to flow-through did so at stress volume levels.[523] Although higher than the rates reflecting commercial usage, we conclude that KPMG's test indicates that Bell Atlantic's systems are capable of achieving high levels of flow-through.[524]

169. Although we recognize that the Department of Justice and commenters assert that the level of manual processing in Bell Atlantic's system suggests that Bell Atlantic's systems are not scalable, we believe that the totality of the evidence demonstrates Bell Atlantic's systems are scalable.[525] In addition to showing its systems are handling current volumes of UNE orders in a nondiscriminatory manner, we find that Bell Atlantic demonstrates that its ordering systems will be able to handle reasonably foreseeable commercial volumes of such orders in a nondiscriminatory manner. We base our conclusion on Bell Atlantic's performance and the KPMG Final Report. As discussed above, Bell Atlantic has shown its ability to manually process orders in a timely and accurate fashion. As the New York Commission points out, Bell Atlantic has a track record of commercial performance that shows its ability to process orders in

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[520] *See BellSouth South Carolina Order*, 13 FCC Rcd at 601-02.

[521] KPMG Final Report POP7 IV-150.

[522] Bell Atlantic Miller/Jordan Decl. at para. 61 (citing KPMG Report POP7 IV-160 (Test P7-2)). Certain types of orders are not designed to flow-through, such as complex orders that require manual handling.

[523] KPMG Final Report POP IV-160 (Test P7-2); *see also* New York Commission Reply at 12; Bell Atlantic Reply at 16.

[524] The New York Commission noted that although the KPMG's results show a higher level of flow-through performance than Bell Atlantic's metrics, the difference "was anticipated and is easily explained." New York Commission Reply at 12. As the New York Commission explained, flow-through in the real commercial environment "is affected by such factors as ordering errors, pending orders, features not intended to flow-through, and the market entry learning curve; and one therefore would expect it to be lower." New York Commission Reply at 12.

[525] Department of Justice Evaluation at 32; AT&T Comments at 20; MCI WorldCom Comments at 16; *see* Choice One Comments at 11.

a timely fashion while demand increases.[526] For example, as noted above, despite tremendous increases in monthly UNE order volumes from over 8,600 orders in January to almost 70,000 orders in September, Bell Atlantic has consistently increased its overall UNE on-time performance for the processing of order status notices.[527] Moreover, as discussed above, actual carrier data and KPMG's test shows that Bell Atlantic's systems are *capable* of achieving high levels of UNE order flow-through.[528] Thus, contrary to the Department of Justice's assertions, we conclude that the evidence discussed above supports a finding that Bell Atlantic's ordering systems will be able to handle reasonably foreseeable commercial volumes of competing carrier orders in a nondiscriminatory manner and, as such, provides competing carriers a meaningful opportunity to compete. Finally, we note that Bell Atlantic's recent commitment to implement improvements to its OSS demonstrates that Bell Atlantic will continue to scale its systems to accommodate the expected increase in competing carrier UNE-platform order volumes.[529]

170. Moreover, Bell Atlantic has shown its commitment to maintain, and even improve upon, its current level of performance. Although not determinative of this issue, our confidence that Bell Atlantic's systems are scalable also stems, in part, from Bell Atlantic's commitment to working with competing carriers to increase their individual order flow-through performance and reduce the number of rejection notices they receive. For example, Bell Atlantic has committed to initiate monthly workshops to address order quality.[530] At these workshops, Bell Atlantic will provide generic examples of orders that failed to meet flow-through criteria and suggested steps for improving orders.[531] Bell Atlantic believes this will "serve to improve [competing carrier] order quality, reduce [order] rejects, and improve the overall flow-through rate."[532] In addition,

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[526] *See* New York Commission Reply at 11-12.

[527] *See, e.g.*, New York Commission Dec. 7 *Ex Parte* Letter (Total UNE order volumes: January (8,612), February (15,442), March (19,796), April (39,427), May (45,136), June (72,121), July (58,575), August (64,350), September (69,791)).

[528] KPMG Final Report POP IV-160 (Test P7-2); *see also* New York Commission Reply at 12; Bell Atlantic Reply at 16.

[529] Specifically, Bell Atlantic proposed a series of enhancements to further reduce the manual processing of UNE-platform orders. In its proposal, Bell Atlantic presented the New York Commission with a three-phase plan to increase the percentage of electronically processed UNE-platform orders. Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 36. As we have stated previously, "the development of OSS functions is not a static process, and we encourage and expect [a BOC] to make improvements to its operations support systems, even after it has filed a section 271 application." *Ameritech Michigan Order*, 12 FCC Rcd at 20624. We recognize, of course, that there is a fundamental difference between making improvements to OSS access that, at the time of the filing of the application, meets the nondiscriminatory requirement, and taking or proposing post-filing remedial measures to try to bring the OSS access into compliance during the pendency of the application. *Id.* We find that Bell Atlantic's proposed improvements are the former, not the latter.

[530] Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 39 (Affidavit submitted on behalf of Bell Atlantic to New York Commission on October 8, 1999).

[531] Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 39 (Affidavit submitted on behalf of Bell Atlantic to New York Commission on October 8, 1999)

[532] Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 39 (Affidavit submitted on behalf of Bell Atlantic to New York Commission on October 8, 1999)

Bell Atlantic has committed to work with competing carriers on an individual basis to address their specific and unique order quality concerns.[533] We are encouraged by these proposed refinements as they indicate an intention on the part of Bell Atlantic to further enhance the scalability of its OSS systems, thereby ensuring that it will continue to process orders in a timely and accurate manner.

171. We also come to a different conclusion than the Department of Justice and commenters with regard to Bell Atlantic's accuracy for manually processed orders.[534] Although we recognize that manually processed orders are more prone to error than orders that are processed automatically, there is no reliable evidence that this is the case in the instant application or that Bell Atlantic's manual processing of orders injects a level of error that prevents efficient competitors a meaningful opportunity to compete. Bell Atlantic measures the accuracy of its manual processes in at least two ways: (1) accuracy of order confirmation notices (order confirmation accuracy); and (2) overall accuracy of competing carrier orders entered into its service order processor (service order accuracy).

172. Bell Atlantic's order confirmation accuracy metric is obtained by comparing certain fields in an order submitted by a competing carrier with the order confirmation notice issued by a Bell Atlantic representative.[535] In recent months, Bell Atlantic's performance metrics range between 95 and 99 percent accuracy for UNE order confirmation notices.[536] AT&T and the Department of Justice, however, claim that Bell Atlantic's order confirmation accuracy for loop orders is not accurately reflected in this metric.[537] Specifically, the Department of Justice notes that during a July Technical Conference before the New York Commission, Bell Atlantic stated that its rate of returning accurate order confirmation notices for loop orders at the time was between 60 and 70 percent.[538] AT&T alleges that data AT&T compiled shows that between June 21 and August 31 Bell Atlantic returned inaccurate order confirmation notices for more than 50 percent of hot cut loop orders.[539] In the face of this discrepancy, we rely upon the New York Commission's conclusion that the disparity results in part from disagreement regarding the information that should be included in the order confirmation notices because the New York

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[533] Bell Atlantic Dowell/Canny Reply Decl. Attach. B at 39 (Affidavit submitted on behalf of Bell Atlantic to New York Commission on October 8, 1999)

[534] Department of Justice Evaluation at 31-32; AT&T Comments at 19; NorthPoint Comments at 13.

[535] Bell Atlantic Dowell/Canny Decl. at para. 53.

[536] Bell Atlantic reported order confirmation accuracy of 99.54, July 97.97, August 98.39, and September 95.08 percent for June, July August, and September, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 79, 91, 102 (metric OR 6-03); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same).

[537] AT&T makes extensive claims regarding LSRC accuracy with respect to UNE loop orders. AT&T Meek Aff. at paras. 35-41. The Department of Justice similarly raises concerns in this regard, arguing that the high level of inaccurate confirmations returned by Bell Atlantic imposes significant costs and delays upon competing carriers. Department of Justice Evaluation at 17.

[538] Department of Justice Evaluation at 16; *see* Bell Atlantic Application, App. C, Vol. 59, Tab. 890 at 3956.

[539] AT&T Meek Aff. at paras. 95.

Commission has had greater opportunity to analyze this issue in the context of the collaborative process.[540] Moreover, in its reply comments, Bell Atlantic states that subsequent improvements to its process for returning order confirmation notices caused it to reach levels of order confirmation accuracy for loop orders of more than 95 percent since the July Technical Conference.[541] We are also satisfied that AT&T's claims have been largely remedied by the parties' agreement to include specific information in order confirmation notices for loop orders.[542] Contrary to the Department of Justice, we therefore find that, based upon all the relevant record evidence, AT&T's claims do not warrant a finding that Bell Atlantic's order confirmation accuracy rate for loop orders is commercially significant.

173. The Department of Justice and commenters also assert that Bell Atlantic's "service order accuracy" metric shows that Bell Atlantic is unable to accurately process manual orders.[543] This metric compares the order submitted by a competing carrier with the completed Bell Atlantic service order.[544] The metric is compiled each business day by Bell Atlantic from an audit of a random sample of orders.[545] Bell Atlantic contends the metric is flawed because it attributes to Bell Atlantic as errors all differences between the original competing carrier order and the order information entered in its service order processor.[546] Thus, according to Bell

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[540] New York Commission Comments at 81 n.3.

[541] Bell Atlantic Reply at 8; Bell Atlantic Dowell/Canny Reply Decl. at para. 35.

[542] *See* New York Commission Comments at 81 n.3.

[543] Bell Atlantic Dowell/Canny Decl. Attach. D at 102 (metric OR 6-01) (August (59.28%)); Bell Atlantic Reply Dowell/Canny Decl. Attach. C at 7 (metric OR 6-01) (September (41.52%)).

[544] Bell Atlantic Dowell/Canny Decl. at para. 37.

[545] Bell Atlantic Dowell/Canny Decl. at para. 37. Members of Bell Atlantic's "Quality Management Team" examine the selected orders and compare twelve specified field identifiers in the service orders with corresponding information in the orders placed by competing carriers. *Id.* Bell Atlantic then reports the percent of orders that match completely. *Id.* Bell Atlantic also reports the percent of the *fields* with errors (i.e., "percent opportunities"). *Id.* Bell Atlantic's performance for the percent opportunities metric has been significantly better than for order accuracy. For example, Bell Atlantic reported performance in August and September of 93.18 percent and 90.58 percent, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 102 (metric OR 6-02); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same). We find that this performance further supports Bell Atlantic's assertion that it manually processes orders accurately.

[546] Bell Atlantic Dowell/Canny Reply Decl. at para 38. Bell Atlantic notes that some orders are handled manually because there is an error in the order submitted by the competing carrier. *Id.* When this happens, the Bell Atlantic wholesale representative corrects the error manually. *Id.* Bell Atlantic claims that the resulting differences between the original order and the corrected order are attributed to Bell Atlantic as errors merely because the order submitted by the competing carrier and the order entered by Bell Atlantic into its service order processor do not match. *Id.* Moreover, Bell Atlantic asserts that the process of translating competing carrier orders into the service order processor may result in "a literal mis-match of information" between the order submitted by the competing carrier and the order entered in the service order processor even when the end result is that the order is provisioned as requested. *Id.* For example, as Bell Atlantic explains, a single package ordering code on an order placed by a competing carrier may require translation into multiple ordering codes for entry into Bell Atlantic's service order processor. *Id.* Bell Atlantic further claims that the low rate is due, in part, to the fact that members of its "Quality Management Team" who compile the data have not yet "mastered the intricacies of the order process and, as such,

Atlantic, this metric actually counts as Bell Atlantic errors those cases where Bell Atlantic has fixed an error in a competing carrier order.[547]

174. In support of its contention that this metric is flawed, on reply, Bell Atlantic submitted an analysis of a random sample of orders.[548] We are persuaded by Bell Atlantic's analysis that its service order accuracy metric is flawed and that its actual level of service order accuracy is significantly higher than reflected in its performance data. We believe that Bell Atlantic's position is further buttressed by its performance on the installation quality performance metrics, which measure, among other things, whether the services requested by the end user were accurately installed.[549] These metrics show that Bell Atlantic has consistently provided service with very low levels of reported installation troubles, as compared to the service it provides its own customers.[550] Given the totality of the evidence described above, including Bell Atlantic's analysis and its performance on the installation quality metrics, we find that Bell Atlantic's accuracy in processing manual orders is sufficient to provide competing carriers with a meaningful opportunity to compete.

175. Moreover, we do not share the Department of Justice's concern about the rate of competing carrier orders rejected by Bell Atlantic.[551] Bell Atlantic has reported that on average it rejected between about 27 and 34 percent of the UNE orders that it received during June through September.[552] Although the Department of Justice recognized that Bell Atlantic is not responsible for orders that are rejected because of competing carrier error, it expressed concern

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are not properly attributing errors." *Id. at* para. 39. Bell Atlantic began reporting data for this metric in August 1999. Bell Atlantic Dowell/Canny Decl. at para. 53.

[547] Bell Atlantic Dowell/Canny Decl. at para 38.

[548] Bell Atlantic Dowell/Canny Decl. at para 38; *id.* Attach. G. The analysis consisted of a random sample of August orders identified as containing errors. Bell Atlantic Reply Dowell/Canny Aff., para 40-41; Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295 at 1 (filed December 13, 1999). Each order was listed with the original error identified. Bell Atlantic Dowell/Canny Decl. at para 38; *id.* Attach. G. Based upon this analysis, Bell Atlantic should have received a score of 87 percent for service order accuracy. Bell Atlantic Dowell/Canny Decl. at para. 41.

[549] Bell Atlantic Dowell/Canny Decl. at para 74 (Installation quality metrics are "additional measures of service order accuracy, since an end user will report a trouble if a service is not installed accurately.").

[550] *See, e.g.*, Bell Atlantic Dowell/Canny Decl. Attach. D at 80, 92, 104 (metrics PR-6-01, 6-02, 6-03); Bell Atlantic Reply Dowell/Canny Decl. Attach. C at 9 (same); *but see* AT&T Crafton/Connolly Aff. at para. 112 (speculating that "errors alone *could* result in provisioning inaccuracies . . . for more than 15 percent of all CLEC UNE orders").

[551] Department of Justice Evaluation at 30. *See also* AT&T Crafton/Connolly Aff. at paras. 103-04 (Bell Atlantic's rejection rates are "commercially unreasonable").

[552] For June, July, August, and September , respectively, Bell Atlantic rejected 28.69, 34.01, 33.65, and 32.14 percent of competing carrier orders. Bell Atlantic Dowell/Canny Decl. Attach D at 79, 91, 102 (metric OR-3-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 7 (same).

that some of the rejections may occur for reasons within Bell Atlantic's control.[553] Ultimately, the Department of Justice concluded that it did not have sufficient information to determine the extent to which Bell Atlantic is, if at all, responsible for the level of rejected orders.[554] We note, however, that in reaching its conclusion the Department of Justice did not discuss the evidence submitted by Bell Atlantic revealing that order rejections greatly vary on an individual carrier basis from 3 percent to greater than 70 percent.[555] We agree with Bell Atlantic that this wide variation in the individual rates strongly implies that the care a competing carrier takes in submitting its orders makes a significant difference in the rate at which its orders are rejected.[556] Accordingly, because we conclude the average rejection rate is overstated, we do not accord it as significant weight in this application as the other factors discussed in this section, such as Bell Atlantic's overall ability to return order confirmation and rejection notices, accurately process manually handled orders, and scale its systems.

176. We also conclude that AT&T and MCI's assertions that they have not received order confirmation or rejection notices for all of their orders are insufficient to rebut Bell Atlantic's evidence showing compliance with the requirements of this checklist item.[557] Although we do not discount the importance of receiving an order confirmation or rejection notice for every order, the present record, including AT&T and MCI's claims, does not indicate

[553] Department of Justice Evaluation at 30 ("Many of these orders are undoubtedly rejected because of errors committed by [competing carriers], for which Bell Atlantic should not be held responsible.").

[554] Department of Justice Evaluation at 30.

[555] Bell Atlantic Miller/Jordan Decl. at para. 42; Bell Atlantic Miller/Jordan Reply Decl. at para. 33; *id.* Attach. C at 7-12 (showing monthly rejection rates and order volumes by carrier for June through August 1999). We note that many carriers placing among the highest order volumes have been able to achieve rejection rates well below the average rate reported by Bell Atlantic in the Carrier-to-Carrier metrics. Bell Atlantic Miller/Jordan Reply Decl. Attach. C at 7-12. This is in contrast to the circumstances in prior section 271 applications where we concluded that a BOC had not shown that order rejections were attributable to competing carrier error. For example, in the *BellSouth South Carolina Order* we concluded that BellSouth had not shown that the level of order rejections for carriers using the EDI interface was attributable to competing carrier error, in part, because every competing carrier attempting to use the interface was experiencing high order rejection rates, Bell South was not providing competing carriers with adequate business rules, and BellSouth failed to provide integrated pre-ordering and ordering interfaces. *BellSouth South Carolina Order*, 13 FCC Rcd at 600-01. None of these factors is present in this application.

[556] Bell Atlantic Miller/Jordan Reply Decl. at para. 33. Both AT&T and Z-Tel assert that Bell Atlantic issues spurious rejection notices. AT&T Crafton/Connolly Decl. Attach. 18; Z-Tel Comments at 19. Bell Atlantic asserts that "the vast majority" of the rejections were not spurious, but resulted from the submission of incorrect orders. Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 47. No other commenters have raised this issue. Moreover, neither AT&T nor Z-Tel has provided specific evidentiary support for their claims. As such, we are unable to find, based upon these claims, that Bell Atlantic has failed to comply with the requirements of this checklist item.

[557] AT&T Connolly/Crafton Aff. at para. 258 (asserting that AT&T did not receive order confirmation or rejection notices for 1% of its orders in August and 9% in September); MCI WorldCom Lichtenberg/Savori Reply Decl. at para. 19 (contending that MCI WorldCom did not receive order confirmations for 28 and 374 orders in August and September, respectively). No other commenters have raised this issue.

that, to the extent any lapses exist, such failures are a systemic problem.[558] Rather, they appear to be isolated problems attributable to either Bell Atlantic or the commenters. We note that we do not hold Bell Atlantic to a standard of perfection. If it were a systemic problem occurring for a significant number of orders, however, it would warrant a finding of noncompliance.

177. Thus after careful consideration of the evaluations of the Department of Justice and the New York Commission, as well as of the commenters, we find that the record demonstrates that Bell Atlantic provides nondiscriminatory access to its ordering functions for UNEs. Although our conclusion differs from that reached by the Department of Justice, we reach it by focusing, in part, on the timely return of order confirmation and rejection notices. Unlike the Department of Justice and various commenters, we place less importance on flow-through rates than in past orders because the deficiencies that we have previously associated with low flow-through rates are not present in Bell Atlantic's systems.[559] Moreover, as explained above, we agree with the New York Commission that Bell Atlantic has shown that it is able to handle significant increases in order volumes and will be able to continue to do so at reasonably foreseeable order volumes. We also find that Bell Atlantic is able to manually process orders in an accurate manner.[560] Finally, as noted above, the Department of Justice explicitly did not analyze Bell Atlantic's application under the competitive checklist of section 271(c)(2)(B) as we are required to do. Accordingly, we find that Bell Atlantic's overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems supports a finding that Bell Atlantic offers competing carriers a meaningful opportunity to compete.

(b) Resale Ordering

178. We also find that Bell Atlantic demonstrates that it is providing nondiscriminatory access to its OSS ordering functions for resale services and, therefore, provides efficient competitors a meaningful opportunity to compete.[561] As an initial matter, we note that there are

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[558] There is no evidence in the record that shows, or even indicates, that Bell Atlantic's systems and interfaces, and not the competing carriers', are responsible for the failure of competing carriers to receive order confirmations.

[559] Department of Justice Evaluation at 29-30 (expressing concern that Bell Atlantic's "heavy reliance" on manual processing increases competing carrier costs and creates significant risk of customer-affecting service problems when order volumes increase); AT&T Comments at 15-22; Choice One Comments at 11; MCI WorldCom Comments at 9-19; NY Attorney General Comments at 11-13; NorthPoint Comments at 13-16; *see* Covad Comments at 29-30.

[560] The Department of Justice also asserts that manual processing of orders increases the costs of competing carriers, and that such cost "may impair the competitive vitality of competing carriers." Department of Justice Evaluation at 32. We conclude, however, that the record does not support a finding that such an impairment would occur. Although AT&T has asserted specific costs associated with various potential Bell Atlantic failures, we are unable to conclude that such costs are accurate and that an efficient competitor would be subjected to them. AT&T Crafton/Connolly Aff Attach. 2. Although significant costs associated with a BOC's manual processing of competing carrier orders might prevent an efficient competitor a meaningful opportunity to compete, the evidence in the record does not support such a conlusion.

[561] Although we have previously analyzed resale flow-through performance under the "substantially same time and manner" standard, we are unable to do so in this application. *See, e.g., First BellSouth Louisiana Order*, 13 FCC Rcd at 6259 (finding that BellSouth "failed to demonstrate that it is offering competing carriers the ability to

virtually no objections from commenters to Bell Atlantic's provision of access to its ordering functions for resale services. Moreover, neither the Department of Justice nor the New York Commission found problems with Bell Atlantic's provision of access to its resale service ordering functions.[562]

179. Although we recognize that the rate of flow-through of resale orders was an area of major concern in prior orders, as we explain above, it is of less concern here given the absence of the deficiencies that we have previously found to be associated with low order flow-through rates and Bell Atlantic's significantly better performance than seen in prior section 271 applications. Rather, we conclude that Bell Atlantic's overall ability, in light of the facts and circumstances of this application, to return timely confirmation and rejection notices accurately process manually handled orders, and process reasonably foreseeable commercial volumes in a nondiscriminatory manner is more relevant and probative for analyzing Bell Atlantic's provision of access to its ordering functions for resale services than a simple flow-through analysis. Thus, given these circumstances and evidence of other performance measures indicating that the access Bell Atlantic provides to its ordering functions offers efficient competitors a meaningful opportunity to compete, we place less emphasis on flow-through rates in this order than we have in prior orders.

180. In recent months Bell Atlantic has met, or has come very close to meeting, the strict benchmark standards set in the New York Carrier-to-Carrier proceeding. As discussed above, the Carrier-to-Carrier guidelines require the return of 95 percent of *mechanized* order confirmation and rejection notices within two hours of submission to Bell Atlantic, and 95 percent of *manually* processed order confirmation and rejection notices under ten lines within 24 hours of submission.[563] Bell Atlantic has met, or has come close to meeting, these standards in

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order services for resale on a nondiscriminatory basis, *i.e.*, within substantially the same time and manner as the BOC provides the service to itself"). As discussed above, unlike other BOCs that provided retail flow-through data in prior applications, Bell Atlantic has asserted that retail flow-through is a "misnomer" for its systems. Bell Atlantic Miller/Jordan Decl. at para. 57; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 37. Moreover, the New York Commission has agreed that there is not a retail analogue in Bell Atlantic's systems. New York Commission Comments at 42 ("Since there is no retail analogue in Bell Atlantic-NY's retail system, ordering metrics are 'absolute standard' metrics."). Thus, given New York and Bell Atlantic's conclusion that a retail analogue does not exist, and in absence of a credible retail analogue in the record, we find that for purposes of this application Bell Atlantic must demonstrate that the access it provides to its ordering functions offers an efficient carrier a meaningful opportunity to compete.

[562] Department of Justice Evaluation at 12 ("While Bell Atlantic's wholesale performance to resellers has not been perfect, the Department does not believe that there are performance deficiencies that are significantly impeding entry by resellers."); New York Commission Comments at 16 (concluding that Bell Atlantic has demonstrated its ability to "satisfactorily process orders" and that its "automated and manual processes are scalable."). We also note that although we have previously recognized the continuing need for all three of the competitive modes of entry, we also stated that we "continue to believe, however, that the ability of unbundled network elements, including various combinations of unbundled network elements, is integral to achieving Congress' objective of promoting rapid competition . . .." *See also UNE Remand Order* at para. 5.

[563] Bell Atlantic Dowell/Canny Decl. Attach B at 17, 21.

recent months.[564] According to the New York Commission's own calculations, this means that Bell Atlantic returned between 93 and 97 percent of all order confirmation and rejection notices on time for the months of June through September.[565] We note that Bell Atlantic's average performance for returning an order confirmation or rejection notice, whether manual or mechanized, in recent months was between approximately four and seven hours.[566] Bell Atlantic has achieved this reliable performance while resale order volumes have ranged from 14,000 orders to 23,000 orders monthly from January through September.[567] Finally, we note that Bell Atlantic's ability to process relatively large volumes of orders in a timely and wholly electronic fashion is significantly better than the performance of the other BOCs in prior applications.[568] Accordingly, we find that Bell Atlantic's ability to process nearly all competing carrier resale orders in under 24 hours, and nearly half of such orders within two hours of submission, provides a competing carrier with a meaningful opportunity to compete. Should Bell Atlantic's performance deteriorate, however, we will be prepared to take appropriate enforcement action.

181. Even considering Bell Atlantic's flow-through performance,[569] however, we find that Bell Atlantic is providing an efficient competitor a meaningful opportunity to compete. As we concluded in our discussion of UNE ordering, the record shows that the average flow-through rate provided in the Carrier-to-Carrier reports do not reflect the actual flow-through capabilities

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[564] Bell Atlantic Dowell/Canny Decl. Attach D at 74, 86, 98 (metrics OR-1 and OR-2); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data, Attach at 2. In June, July, August, and September, Bell Atlantic returned 98, 97, 99, and 99 percent, respectively, of mechanized order confirmation notices within two hours and 94, 93, 95, and 85 percent, respectively, of manually processed order confirmation notices within 24 hours. Bell Atlantic Dowell/Canny Decl. Attach D at 74, 86, 98 (metrics OR-1-02 and 1-04); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data, Attach at 2. Moreover, for mechanized rejection notices for those same months, Bell Atlantic returned 98, 98, 100, and 99 percent within two hours, respectively, and 96, 92, 93, and 91 percent, respectively, of manual rejection notices within 24 hours. Bell Atlantic Dowell/Canny Decl. Attach D at 74, 86, 98 (metrics OR-2-02 and 2-04); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data, Attach at 2. Although the September data in this footnote was also affected by the correction described in the UNE section above its effect was only marginal.

[565] New York Commission Dec. 7 *Ex Parte* Letter (Bell Atlantic returned 97, 95, 97 and 93 percent of its order confirmation and rejection notices on time for June, July, August, and September, respectively).

[566] On average for June, July, August, and September Bell Atlantic returned order confirmation notices in 5.27, 6.53, 6.27, and 7.25 hours, respectively, and order rejection notices in 4.20, 5.98, 5.31, and 6.25 hours, respectively. These averages were calculated by Commission staff from the Carrier-to-Carrier data provided by Bell Atlantic. Bell Atlantic Dowell/Canny Decl. Attach. D at 74, 86, 98 (metrics OR-1 and OR-2); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same); Bell Atlantic Dec. 17, 1999 *Ex Parte* Letter correcting September data.

[567] New York Commission Dec. 7 *Ex Parte* Letter (stating resale service volumes as follows: January (14,206), February (14,457), March (21,833), April (20,974), May (20,702), June (17,787), July (16,885), August (17,549), September (22,856)).

[568] *See supra* para. 165.

[569] The Carrier-to-Carrier reports indicate that on average resale orders flowed-through 53.77, 54.02, 45.97, and 51.60 percent of the time for June, July, August, and September, 1999, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 74, 86, 98 (metric OR-5-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same).

of Bell Atlantic's systems. An examination of flow-through rates of individual competing carriers ordering resale services from Bell Atlantic show flow-through rates in September ranging from about one to 82 percent.[570] Because all carriers ordering resale services from Bell Atlantic interface with the same Bell Atlantic systems, we conclude that this wide range of results for competitors strongly implies that competitors are likely more responsible for low average flow-through performance than Bell Atlantic.[571] Moreover, the KPMG Final Report supports a finding that Bell Atlantic's systems are capable of high flow-through for resale orders, as KPMG found that over 99 percent of all resale orders designed to flow-through did so at normal and stress levels.[572]

182. We also find that Bell Atlantic demonstrates that it is capable of providing nondiscriminatory access to its resale ordering functions at reasonably foreseeable volumes. Although, as mentioned above, Bell Atlantic processes significant volumes of resale orders, the record does not indicate an upward trend in those monthly volumes.[573] We do not believe that the volumes of resale orders are likely to grow to the same degree as we expect volumes of UNE orders to increase in the foreseeable future. As the Department of Justice recognized, resale service in New York is principally used as a "transitional tool on the way to facilities based competition."[574] Thus, because we do not expect monthly volumes of resale orders to increase substantially above the volumes that Bell Atlantic has shown it is currently capable of processing in a manner that provides competitors with a meaningful opportunity to compete, we are satisfied that Bell Atlantic will meet future demand for reasonably foreseeable volumes of resale orders. Moreover, we note that Bell Atlantic has shown its willingness and ability to accommodate the

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[570] Bell Atlantic Nov. 23 *Ex Parte* Letter (listing volumes and flow-through rates by individual carriers for resellers).

[571] We note that factors under competing carrier control, such as failing to integrate pre-ordering and ordering interfaces, adequately train and manage their employees, or invest in the necessary systems, will have significant impacts on competing carrier flow-through rates.

[572] KPMG Final Report at POP7 IV-150 (Test P7-1).

[573] *See* Department of Justice Evaluation at 11-12; New York Commission Dec. 7 *Ex Parte* Letter (listing total volumes by month for resale services).

[574] Department of Justice Evaluation at 11 (quoting Bell Atlantic Application Taylor Decl. at para. 43). The Department of Justice further described the resale entry strategy as follows:

> [s]pecifically resale allows CLECs—especially those that serve the more lucrative business market—to build a customer base with minimal investment while they construct their own network facilities. Resale allows those CLECs that cannot justify the cost of investing in their own network facilities, such as those serving the less lucrative residential market, the ability to offer local exchange service as part of a bundled package of telecommunications services that "one-stop shopping" customers demand. Thus, although resale alone is not likely to be a major avenue for competitive entry, particularly for serving the residential market, the number of resale line in service continues to grow in New York.

Department of Justice Evaluation at 11-12.

needs of its wholesale customers as their needs grow increasingly complex.[575] Should our predictive judgment concerning future volumes of resale orders prove inaccurate, and should Bell Atlantic's performance in processing such orders deteriorate, we fully expect to take appropriate enforcement action.

183. Finally, as we concluded in our discussion of UNE ordering, we find that Bell Atlantic demonstrates adequate performance with respect to order accuracy and order rejection for resale services. First, the Carrier-to-Carrier data indicate that Bell Atlantic has consistently provided service with very low levels of reported installation troubles, as compared to the service it provides its own customers,[576] and accurate order confirmation notices.[577] Moreover, for the reasons discussed above with regard to UNE ordering, we disregard Bell Atlantic's low reported performance for service order accuracy.[578] Second, we find that Bell Atlantic's overall rejection rate for resale orders more accurately reflects the particular capabilities of individual competing carriers, rather than deficiencies in Bell Atlantic's systems. The Carrier-to-Carrier rejection rates for resale orders in recent months indicate that, on average, Bell Atlantic rejects between about 23 and 31 percent of resale orders submitted by competing carriers.[579] When examined on an individual carrier basis, however, rejection rates vary from three to 73 percent.[580] As we concluded for UNE rejection rates, we find that this wide variation in individual rates strongly implies that the ability of a competing carrier to submit accurate orders significantly affects the rate at which its orders are rejected. Because we conclude the average rejection rate is overstated, we do not accord it as significant weight in this application as the other factors discussed in this section. Rather, it is Bell Atlantic's overall ability to return timely order confirmation and rejection notices, accurately process manually handled orders, and scale its systems that supports our finding that Bell Atlantic affords competitors a meaningful opportunity to compete.

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[575] *See, e.g.*, Letter from Dee May, Director, Federal Regulatory Affairs, Bell Atlantic, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket 99-295, Attach 1 (filed December 7, 1999) ("To handle the increase in complex [resale] orders, Bell Atlantic is modifying its staffing needs to meet the new work requirements.").

[576] Bell Atlantic Dowell/Canny Decl. Attach. D at 75, 87, 99 (metric OR-6-03); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same).

[577] For June, July, August, and September, respectively, Bell Atlantic's order confirmation accuracy performance was 95.10, 91.04, 95.11, and 96.30 percent. Bell Atlantic Dowell/Canny Decl. Attach. D at 74, 86, 98 (metric OR-6-03); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same).

[578] *See supra* paras. 173-74. For August and September, Bell Atlantic reported service order accuracy performance of 70.37 and 56.90 percent, respectively. Bell Atlantic Dowell/Canny Decl. Attach. D at 98 (metric OR-6-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same). Bell Atlantic began reporting this metric in August.

[579] Specifically, on average Bell Atlantic rejected 30.59, 30.43, 29.39, and 23.50 percent of competing carrier orders in June, July, August, and September. Bell Atlantic Dowell/Canny Decl. Attach. D at 74, 86, 98 (metric OR-3-01); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3 (same).

[580] Bell Atlantic Miller/Jordan Aff. at para. 42; Bell Atlantic Miller/Jordan Reply Decl at para. 33; *id.* Attach. C at 1-7 (showing monthly rejection rates and order volumes by carrier for June through August 1999).

(c) Jeopardies

184. We conclude that Bell Atlantic makes order status and "jeopardy" information (*i.e.*, notice that a service installation due date will be missed) available to competing carriers in a nondiscriminatory manner. Bell Atlantic explains that it makes this information available to competing carriers in several ways. First, it provides electronic access to jeopardy notices contained in Open Query System reports, which are generated three times daily from its Work Force Administration (WFA) system.[581] The WFA system is updated by field technicians and reflects whether an order is pending, has been completed, or has been (or will be) missed.[582] Competitors thus can retrieve this information and "determine whether there is a problem on a given order."[583] Bell Atlantic also indicates that competing carriers may check on the status of an order in WFA or in the Service Order Processor (SOP) through the pre-ordering interfaces, or by calling one of Bell Atlantic's dispatch centers.[584] Like their counterparts at competing carriers, Bell Atlantic's retail representatives also must take steps to determine whether there is any indication that an appointment will be missed, or has been missed. Specifically, Bell Atlantic states that its retail representatives may check the status of an order by querying the WFA system, by querying SOP, or by calling a dispatch center.[585]

185. We conclude that the order status and jeopardy information system created by Bell Atlantic for wholesale orders is nondiscriminatory because it allows competing carriers to access order status and "jeopardy" information, to the extent that it is available, in substantially the same time and manner as Bell Atlantic's retail operations can access such information.[586] We thus disagree with AT&T's suggestion that Bell Atlantic's inability to *actively* provide electronic jeopardy notices, instead of merely providing access to such information, reflects discriminatory access to its ordering functionality.[587] We also disagree with NorthPoint's suggestion that Bell Atlantic must create a process for providing "notice *before* the due date that it is going to miss

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[581] *See* Bell Atlantic Application at 44; Bell Atlantic Miller/Jordan Decl. at para. 67; *see also* Letter from Robert W. Quinn, Director, Federal Government Affairs, AT&T, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 99-295 at 57 (filed Dec. 15, 1999) (AT&T Dec. 15 *Ex Parte* Letter).

[582] *See* Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 50; Bell Atlantic Nov. 24 *Ex Parte* Letter at 6-7.

[583] Bell Atlantic Application at 44.

[584] *See* Bell Atlantic's Miller/Jordan Decl. at para. 18; Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 50.

[585] *See* Bell Atlantic Nov. 24 *Ex Parte* Letter at 6. Bell Atlantic also states that its dispatch centers receive Open Query System reports on a daily basis and, based on information contained in these reports, call customers to reschedule appointments when an appointment has been missed. *See id.* Because competing carriers also have access to these reports, they would be able to reschedule missed appointments in the same manner.

[586] In particular, we find that the regular access to Open Query System reports, in addition to real-time access to order status information through SOP and WFA, allows competing LECs access to obtain information about pending orders in substantially the same time as Bell Atlantic's retail operations.

[587] *See* AT&T Comments at 22; AT&T Reply at 28; AT&T Crafton/Connolly Aff. at paras. 152-158; *see also* AT&T Dec. 15 *Ex Parte* Letter at 57.

the due date."[588] Although we recognize that a system designed to deliver jeopardy notification well in advance of missed appointments would lessen the impact of such misses, we reiterate that the standard sought in this instance is *nondiscriminatory access* to Bell Atlantic's OSS. Accordingly, we do not require Bell Atlantic to establish a system for creating and delivering jeopardy notifications to competing carriers that is superior to the system Bell Atlantic has for its own retail representatives or customers.

186. Although Bell Atlantic does not actually deliver jeopardy notices to competing carriers with respect to provisioning resale services, individual UNEs and UNE-P, we note that it has established a mechanism for actively providing such notices in connection with its hot cut process. Under the "due date minus two" procedure, Bell Atlantic is required to check for a competing carrier's dial tone two days before a hot cut due date and promptly to notify the carrier if there is a problem.[589] The New York Commission recognizes that this "allows the [competitive LEC] the opportunity to notify its customer of potential delay and, if necessary, postpone the due date."[590] We commend Bell Atlantic for developing this "due date minus two" jeopardy process, and find that it appears to be critical to the proper functioning of the hot cut process.

(d) Completion Notices

187. We conclude that Bell Atlantic provides order completion notification in a manner that affords an efficient competitor a meaningful opportunity to compete.[591] An order completion notice informs a competing carrier that Bell Atlantic completed the installation of the service requested by the particular order, which provides notice to the carrier that it has responsibility for the customer's care and may begin billing the customer for service.[592] Until the competing carrier receives a completion notice, the carrier does not know that the customer is in service, and

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[588] *See* NorthPoint Comments at 16-17; *see also* Prism Comments at 12; Z-Tel Comments at 15.

[589] *See* New York Commission Comments at 88; Bell Atlantic Application at 70; Bell Atlantic Reply at 10.

[590] *See* New York Commission Comments at 88.

[591] The Commission has indicated in prior section 271 orders that a BOC should provide order completion notification in substantially the same time and manner as it provides such information to its retail operations. *See First BellSouth Louisiana Order*, 13 FCC Rcd at 6264-65; *BellSouth South Carolina Order*, 13 FCC Rcd at 603. *See also Second BellSouth Louisiana Order*, 13 FCC Rcd at 20685-86 (instructing BOCs to provide competing carriers with order completion notices "in a timely and accurate manner."). In this case, however, Bell Atlantic represents that it does not provide any completion notification to its own retail representatives, and the New York Commission similarly concluded that order completion notification lacks a retail analogue. *See* Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 52 (explaining that if a retail representative "has some need to check on a particular feature, he or she would pull up the customer's CSR or the service order."); New York Commission Comments at 42 (indicating that ordering metrics have no retail analogue). Given the New York Commission and Bell Atlantic's conclusions that a retail analogue does not exist, and in absence of a credible retail analogue in the record, we find for purposes of this application that Bell Atlantic must demonstrate that it provides completion notification sufficient to allow an efficient competitor a meaningful opportunity to compete.

[592] *See Second BellSouth Louisiana Order*, 13 FCC Rcd at 20685; *BellSouth South Carolina Order*, 13 FCC Rcd at 615; *Ameritech Michigan Order*, 12 FCC Rcd at 20650 n.512. *See also Performance Measurements NPRM*, 13 FCC Rcd at 12847.

cannot begin billing the customer for service or addressing any maintenance problems experienced by the customer.[593] Thus, untimely receipt of order completion notices directly impacts a competing carrier's ability to serve its customers at the same level of quality that Bell Atlantic provides to its retail customers.[594] Accordingly, the Commission has instructed a section 271 applicant to demonstrate that it provides competing carriers with order completion notices in a timely and accurate manner.[595] The BOC must minimize any delay between the actual installation of service and the competing carrier's receipt of an order completion notice.[596]

188. We base our finding that Bell Atlantic provides sufficient order completion notification on Bell Atlantic's provision of both "billing completion" and "work completion" notices to competing carriers. Bell Atlantic sends billing completion notices when an order is recorded as completed in Bell Atlantic's billing systems.[597] Specifically, after Bell Atlantic's Service Order Processor (SOP) passes order completion information to Bell Atlantic's billing systems (CRIS), the billing records are updated overnight and billing completion notices are sent the following day.[598] In August 1999, Bell Atlantic began providing "work completion" notices (also referred to as a "provisioning completion" or "field completion" notice) to inform carriers of the completion of the work associated with an order.[599] For orders requiring physical work, when the technician reports order completion to Bell Atlantic's Work Force Administration (WFA), it generates a completion in SOP, which automatically notifies the competing carrier of the work completion.[600] For orders not requiring physical work, SOP is automatically updated during overnight processing and generates a work completion notice the following morning. Both types of completion notices are sent to the carrier over the same interface used to submit the

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[593] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20685-86.

[594] *First BellSouth Louisiana Order*, 13 FCC Rcd at 6265 (indicating that "order status notices have a direct impact on a new entrant's ability to serve its customers, because they allow competing carriers to monitor the status of their resale orders and to track the orders both for their customers and their own records.").

[595] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20686. *See also First BellSouth Louisiana Order*, 13 FCC Rcd at 6265; *BellSouth South Carolina Order*, 13 FCC Rcd at 615.

[596] *Second BellSouth Louisiana Order*, 13 FCC Rcd at 20685-86; *BellSouth South Carolina Order*, 13 FCC Rcd at 615.

[597] *See* Bell Atlantic Miller/Jordan Decl. at para. 50; Bell Atlantic Dowell/Canny Decl. at para. 46 ("For every order completed in the Billing system, a completion notice has been sent.").

[598] Bell Atlantic Dowell/Canny Decl. at para. 46.

[599] Bell Atlantic Dowell/Canny Decl. at para. 48; Bell Atlantic Miller/Jordan Decl. at para. 51; *see also* New York Commission Comments at 49; *NYPSC Additional Guidelines Order* at 16 (noting that in Carrier Working Group meetings during August and September Bell Atlantic offered to notify competing carriers when the work completion has been entered into its service order processing system).

[600] Bell Atlantic Dowell/Canny Decl. at para. 48.

order.[601]

189. With respect to performance data, Bell Atlantic measures billing completion notification timeliness, or the time that elapses from when an order is recorded as completed in Bell Atlantic's billing systems until the time Bell Atlantic distributes a billing completion notice to the carrier.[602] The New York Commission, based on the Carrier-to-Carrier collaborative proceeding, established a performance standard requiring Bell Atlantic to return 95 percent of billing completion notices by noon the day following order completion in its billing system.[603] We find this standard to be a reasonable and appropriate measure of whether Bell Atlantic provides timely notification that a service order has been recorded as complete in Bell Atlantic's billing systems. For both resale and unbundled network elements, Bell Atlantic reports timely return of billing completion notices for 100 percent of carriers' orders from June through September 1999.[604] In addition, KPMG verified that Bell Atlantic returned 99 percent of the billing completion notices for its test orders on time.[605] KPMG also found that less than one percent of the 3,000 completion notices lacked complete information.[606] In light of recent Bell Atlantic performance and KPMG's findings, we reject AT&T's allegation that Bell Atlantic does not deliver timely completion notices.[607]

190. We note with approval that the New York Commission recently required Bell Atlantic to augment its reporting of the timeliness of billing completion notification by also reporting the timeliness of work completion notification.[608] Specifically, Bell Atlantic must

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[601] *Id.* at para. 47; Bell Atlantic Miller/Jordan Decl. at paras. 50, 51. Although Z-Tel complains that it does not receive affirmative notification from Bell Atlantic over the Web GUI interface, we find that this functionality is available using the EDI interface. *See* Z-Tel Comments at 16, 19-20.

[602] Bell Atlantic Dowell/Canny Decl. at para. 46; Attach. B. at 26-27 (describing metrics OR-4-01, OR-4-02, OR-4-03).

[603] Bell Atlantic Dowell/Canny Decl. at para. 47; Bell Atlantic Miller/Jordan Decl. at para. 50; *see also NYPSC Guidelines Order* at 2 (adopting, after input from Bell Atlantic and competing carriers in the Carrier-to-Carrier collaborative, a general performance standard of 95 percent as a reasonable and achievable level that will permit competing carriers to enter the local exchange market).

[604] Bell Atlantic Dowell/Canny Decl. Attach. D at 74, 79, 86, 91, 98, 102 (metric OR-4-02 for June, July, and August 1999); Bell Atlantic Dowell/Canny Reply Decl. Attach. C at 3, 7 (metric OR-4-02 for September 1999).

[605] KMPG Final Report at POP5 IV-114-15 (excluding approximately ten percent of orders where KPMG did not receive a completion notice due to a problem occurring primarily in January 1999 that Bell Atlantic later resolved). *See* New York Commission Comments at 49.

[606] KPMG Final Report at POP5 IV-116. *See also* New York Commission Comments at 49.

[607] *See* AT&T Crafton/Connolly Aff. at para. 260 (claiming that AT&T received only 79 percent of billing completion notices on time for AT&T orders that were eligible to receive such notices in September); AT&T Crafton/Connolly Reply Aff. at para. 83; AT&T Pfau/Kalb Reply Decl. at para. 56 (indicating that AT&T received only 72 percent of billing completion notices on time for eligible October orders). AT&T does not demonstrate that the delay is attributable to Bell Atlantic's systems.

[608] *See NYPSC Additional Guidelines Order* at 16-17; *Performance Measurements NPRM*, 13 FCC Rcd at 12845, 12847 (tentatively concluding that incumbent LECs must measure the average completion notice interval, or "the

report work completion notification timeliness and the average time that elapses between work completion and billing completion, as well as the percentage of orders where this interval exceeds one and five days.[609] For the timeliness of work completion notification, based on the Carrier-to-Carrier collaborative, the New York Commission established a performance standard requiring Bell Atlantic to deliver 95 percent of work completion notices by noon the day following completion of the work associated with the order.[610] We find this standard a reasonable and appropriate measure of work completion notification timeliness. Although Bell Atlantic has not begun reporting these intervals, in this case we do not find that the lack of this performance data warrants a finding of noncompliance with this checklist item.[611] Nonetheless, we expect that Bell Atlantic will promptly comply with the standard established by the New York Commission.

191. Based on the record evidence, we reject commenters' allegations that Bell Atlantic frequently fails to provide completion notices at all, and that the missing notices are not captured in the performance reporting.[612] Although we do not discount the importance of receiving an order completion notice for every order, commenters do not demonstrate that the missing notices are attributable to Bell Atlantic's systems. Rather, based on the present record, we find that the failure to receive a notice may be attributable to either Bell Atlantic or the interfaces and systems of competing carriers. As such, we find that the commenters' allegations are insufficient to rebut Bell Atlantic's evidentiary showing. If in the future we find evidence of

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amount of time it takes an incumbent LEC to send a competing carrier notice that work on an order has been completed" by "subtracting the date and time that it completed the work from the date and time a valid completion notice leaves its OSS interface."). *See also NYPSC Permanent Rule Order* App. at 21-22; *NYPSC Guidelines Order*, App. 3 at 1 (directing parties in the Carrier-to-Carrier collaborative to consider measuring the time of completion of the physical work).

[609] *NYPSC Additional Guidelines Order* at 17.

[610] *Id.*

[611] We note that Bell Atlantic's pre-ordering interfaces enable carriers to view a pending order's installation status to determine whether the physical work on an order has been completed. *See infra* at Section V.B.1.c. *See also* Bell Atlantic Dowell/Canny Decl. at para. 48; Bell Atlantic Miller/Jordan Decl. at para. 21. Moreover, Bell Atlantic notifies competing carriers by phone when hot cut and trunk orders are completed. We therefore do not consider AT&T's and MCI WorldCom's allegations that Bell Atlantic does not deliver timely work completion notices particularly probative to approval of this application. *See* AT&T Crafton/Connolly Aff. at para. 259 (claiming that AT&T received only 66 percent of work completion notices on time for AT&T orders that were eligible to receive such notices in September); MCI WorldCom Kinard Decl. at paras. 16-17 (indicating that notification of provisioning completions "still takes too long.").

[612] *See* AT&T Crafton/Connolly Aff. at paras. 259, 260 (claiming that AT&T did not receive a work completion notice for 23 percent, nor a billing completion notice for 17 percent, of eligible September orders); AT&T Pfau/Kalb Reply Decl. at paras. 55, 56 (indicating that AT&T did not receive work completion notices for 19 percent of orders submitted in the first half of October and failed to receive billing completion notices for 24 percent of such orders); MCI WorldCom Kinard Decl. at para. 18 (claiming that MCI WorldCom failed to receive billing completion notices, but speculating that the addition of provisioning completion notices may improve the situation); MCI WorldCom Reply at 9-11; MCI WorldCom Lichtenberg/Sivori Reply Decl. at 9-12 (indicating that MCI WorldCom failed to receive completion notices for a number of August, September and October orders). MCI WorldCom admits that for half of the August and September orders that are missing billing completions, it did receive a work completion notice. MCI WorldCom Lichtenberg/Sivori Reply Decl. at 10.

a systematic and widespread failure of Bell Atlantic to deliver completion notices to competing carriers, we are prepared to take appropriate enforcement action.

192. Furthermore, we are encouraged that Bell Atlantic will provide fielded complex completion notifications in April 2000.[613] This functionality will enable competing carriers to detect and correct provisioning errors early.[614] Although Bell Atlantic has yet to complete implementation of this functionality, AT&T admits that the decision to defer implementation until April 2000 came about by an August 1999 vote of Bell Atlantic and competing carriers in a change management collaborative meeting, with AT&T dissenting.[615] Accordingly, we note that the delay in implementing this functionality is attributable in part to competing carriers.

g. Provisioning

193. In this section we conclude that Bell Atlantic provisions competing LEC customers' orders for UNE-P and resale POTS in substantially the same time and manner as it is provisioning its own retail customers.[616] Our conclusion is based on the totality of the evidence before us. First, we find that Bell Atlantic's systems are set up to provide parity of service for provisioning wholesale and retail orders. Second, we conclude that evidence from the Carrier to Carrier metrics shows that Bell Atlantic is missing fewer competitive LEC customer appointments and providing equal or better quality installations, compared to appointments for its own retail customers. Third, we consider evidence concerning Average Completed Intervals but conclude that, due to flaws in this data, as evidenced by the Gertner/Bamberger study[617] and other evidence, such data should be accorded less weight.

(i) Background

194. In the *Ameritech Michigan Order*, the Commission first addressed nondiscriminatory access to OSS provisioning functions in the context of a BOC's showing of compliance with checklist item 2.[618] The Commission concluded that Average Installation

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[613] Bell Atlantic Miller/Jordan/Zanfini Reply Decl. at para. 52 (indicating that Bell Atlantic "is prepared to implement this functionality in April"). A fielded complex completion notification takes information about a completed order and assigns it to specific fields. AT&T Comments at 22.

[614] AT&T states that it can use fielded completion notices to confirm that Bell Atlantic provisioned the order accurately and that the customer received the correct services and features. AT&T Crafton/Connolly Aff. at paras. 159, 162.

[615] AT&T Crafton/Connolly Aff. at para. 165 n.87. According to AT&T, carriers agreed to the postponement because of concerns "about the effects of the implementation on the Y2K moratorium." *Id.*

[616] We discuss loop provisioning below. *See infra* Section V.D.2.a.

[617] The Gertner/Bamberger study was submitted to us by Bell Atlantic. It examines the reasons for the differences in the observed Average Completed Intervals for competing carriers orders as compared to orders for Bell Atlantic's retail customers. For a discussion of the study, *see infra* paras. 203-210.

[618] *Ameritech Michigan Order*, 12 FCC Rcd at 20612-58.